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June 20, 1996

Part II

**Department of Defense
General Services
Administration**

**National Aeronautics and
Space Administration**

**48 CFR Ch. 1
Federal Acquisition Regulation (FAR);
Final Rules**

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Chapter 1****Federal Acquisition Circular 90-39
Introduction**

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Summary presentation of final and interim rules with request for comment.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rules which follow it in the order listed below. The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are issuing Federal Acquisition Circular (FAC) 90-39 to amend the FAR.

DATES: For effective dates and comment dates, see separate documents which follow. Please cite FAC 90-39 and the appropriate FAR case number(s) in all

correspondence related to the following documents.

FOR FURTHER INFORMATION CONTACT: The analyst whose name appears (in the table below) in relation to each FAR case or subject area. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405, (202) 501-4755. Please cite FAC 90-39 and specific FAR case number(s).

SUPPLEMENTARY INFORMATION: Federal Acquisition Circular 90-39 amends the Federal Acquisition Regulation (FAR) as specified below:

Item	Subject	FAR case	Analyst
I	Double-Sided Copying	92-050	De Stefano.
II	National Industrial Security Program Operating Manual (NISPOM)	95-004	O'Neill.
III	Justification and Approval Thresholds	96-302	De Stefano.
IV	Implementation of Memorandum of Understanding Between the United States of America and the European Economic Community on Government Procurement and Sanctions Imposed on the European Community.	93-606	O'Such.
V	Postponement of Bid Openings or Closing Dates	91-095	De Stefano.
VI	Armed Services Pricing Manual	95-027	Olson.
VII	Predetermined Indirect Cost Rates	94-011	De Stefano.
VIII	Small Business Size Standards	94-600	Klein.
IX	Master Subcontracting Plans	92-039	Klein.
X	Small Business Competitiveness Demonstration Program	92-302	Klein.
XI	Use of Convict Labor	93-615	O'Neill.
XII	Ozone Executive Order	93-307	De Stefano.
XIII	Uruguay Round (1996 Code)	95-304	O'Such.
XIV ...	Implementation of the North American Free Trade Agreement Implementation Act	93-310	O'Such.
XV ...	Caribbean Basin Countries	95-030	O'Such.
XVI ...	Fluctuating Exchange Rates	92-048	O'Such.
XVII ...	Irrevocable Letters of Credit and Alternatives to Miller Act Bonds	95-301	O'Neill.
XVIII ...	Part 31 Agency Supplements	94-606	Olson.
XIX ...	Records Retention	93-020	Olson.
XX ...	Legislative Lobbying Costs	93-006	Olson.
XXI ...	Travel Costs	93-022	Olson.
XXII ...	Prompt Payment Overseas	92-046	Olson.
XXIII ...	Alternate Dispute Resolution/Federal Courts Administration Act	91-062/92-301	O'Neill.
XXIV ...	Defense Production Act Amendments	93-304	O'Neill.
XXV ...	Child Care Services	91-106	Klein.
XXVI ...	Quick-Closeout Procedures	95-009	Klein.
XXVII ...	Quality Assurance Actions—Electronic Screening	92-031	Klein.
XXVIII ...	Quality Assurance Nonconformances	92-027	Klein.
XXIX ...	Solicitation Provisions—Contract Clauses	95-603	O'Neill.
XXX ...	Contract Award—Sealed Bidding—Construction	91-031	O'Neill.
XXXI ...	Small Business Innovation Research Rights in Data	93-305	O'Neill.
XXXII ...	Inspection Clauses—Fixed Price	92-001	Klein.
XXXIII ...	Termination for Convenience	91-102	Klein.
N/A ...	Corrections and Technical Amendments		
	(1) Revision to FAR Utility Matrix (Loose-leaf edition only)	92-617	O'Such.
	(2) Table of Standard Forms and OMB Expiration Dates	N/A	N/A.

Item I—Double-Sided Copying (FAR Case 92-050)

The interim rule published as Item I of FAC 90-27, and amended by Item III of FAC 90-29, is revised and finalized. The interim rule added FAR Subpart 4.3 and a clause at 52.204-4 to encourage

offerors and contractors to maximize the use of double-sided copying on recycled paper, in accordance with Executive Order 12873. FAC 90-29 amended FAR 4.304 to eliminate the requirement for use of the clause at 52.204-4 in acquisitions at or below the simplified acquisition threshold. The final rule

contains additional changes at 4.301 and 52.204-4 to implement Executive Order 12995, which amended Executive Order 12873 to revise the minimum recycled content standards for printing and writing paper.

Item II—National Industrial Security Program Operating Manual (NISPOM) (FAR Case 95-004)

This final rule amends FAR Subparts 4.4 and 27.2 and the clause at 52.204-2 to (1) replace references to the "Defense Industrial Security Program" with references to the "National Industrial Security Program"; and (2) replace references to the "DoD Industrial Security Manual for Safeguarding Classified Information" with references to the "National Industrial Security Program Operating Manual." The National Industrial Security Program has been established in accordance with Executive Order 12829.

Item III—Justification and Approval Thresholds (FAR Case 96-302)

This final rule amends FAR 6.304 to implement Section 4102 of the Fiscal Year 1996 Defense Authorization Act (Public Law 104-106). Section 4102 amends 10 U.S.C. 2304(f)(1)(B) and 41 U.S.C. 253(f)(1)(B) to raise the dollar thresholds at which approval for the use of other than full and open competition must be obtained from the competition advocate, the head of the procuring activity, or the senior procurement executive. Section 4102 provides for approval of the justification for other than full and open competition by (1) the competition advocate, for proposed contracts over \$500,000, but not exceeding \$10,000,000; (2) the head of the procuring activity, or designee, for proposed contracts over \$10,000,000, but not exceeding \$50,000,000; and (3) the senior procurement executive, for proposed contracts over \$50,000,000.

Item IV—Implementation of Memorandum of Understanding Between the United States of America and the European Economic Community on Government Procurement and Sanctions Imposed on the European Community (FAR Case 93-606)

The interim rule published in FAC 90-18, and amended in FACs 90-19 and 90-36, is converted to a final rule without change. The rule amended FAR Parts 14, 15, 17, 25, and 52 to (1) implement Executive Order 12849 which, based on a Memorandum of Understanding between the United States and the European Community, waives the Buy American Act in certain situations; and (2) implement certain trade sanctions imposed on the European Community.

Item V—Postponement of Bid Openings or Closing Dates (FAR Case 91-095)

This final rule amends FAR 14.402-3, and 15.412 and the provisions at 52.214-7, 52.214-23, 52.214-32, 52.214-33, 52.215-10, and 52.215-36 to clarify policy regarding rescheduling of the time for receipt of bids or proposals when an emergency or unanticipated event interrupts normal processes at a Government installation. An editorial revision is made at 15.411(a).

Item VI—Armed Services Pricing Manual (FAR Case 95-027)

This final rule amends FAR 15.805-1 to replace the Armed Services Pricing Manual, as the reference guide for pricing and negotiation personnel, with five desk references jointly prepared by the Air Force Institute of Technology and the Federal Acquisition Institute.

Item VII—Predetermined Indirect Cost Rates (FAR Case 94-011)

This final rule amends FAR 42.705-3 and the clause at 52.216-15 to implement revisions to OMB Circular A-21 that permit predetermined indirect cost rates for educational institutions to be established for periods of up to four years. An editorial revision is made at 16.307(i).

Item VIII—Small Business Size Standards (FAR Case 94-600)

This final rule revises the table at FAR 19.102 to reflect size standards published by the Small Business Administration.

Item IX—Master Subcontracting Plans (FAR Case 92-039)

This final rule amends FAR 19.704 and the clause at 52.219-9 to permit master subcontracting plans to be written for a three-year period, and to emphasize that it is incumbent upon contractors to maintain and update master plans.

Item X—Small Business Competitiveness Demonstration Program (FAR Case 92-302)

The interim rule published as Item XIII of FAC 90-23 is converted to a final rule without change. The rule amended FAR Subpart 19.10 to (1) extend the Small Business Competitiveness Demonstration Program through September 30, 1996; (2) specify that agencies may reinstate the use of small business set-asides as necessary to meet assigned goals, but only within the organizational unit(s) that failed to meet the small business goals; and (3) revise the description of architectural and engineering services as a designated industry group.

Item XI—Use of Convict Labor (FAR Case 93-615)

This final rule amends FAR Subpart 22.2 and the clause at 52.222-3 to reflect changes in the statutory restrictions on employment of convict labor in the performance of Government contracts. The amendments (1) remove all references to 18 U.S.C. 4082(c)(2), which now only applies to offenses committed prior to November 1, 1987; (2) reflect the addition of the Commonwealth of the Northern Mariana Islands to the jurisdictions covered by Executive Order 11755; and (3) include further information regarding the requirements of Executive Order 11755, as amended by Executive Order 12608.

Item XII—Ozone Executive Order (FAR Case 93-307)

The interim rule published as Item III of FAC 90-27 is revised and finalized. The rule implements Executive Order 12843 and Environmental Protection Agency Clean Air Act regulations (40 CFR Part 82). The final rule differs from the interim rule in that it (1) amends FAR Subpart 23.8 and the clause at 52.223-11 to replace the definitions of "class I substance" and "class II substance" with a definition of "ozone-depleting substance"; and (2) amends the clause at 52.223-11 to clarify that labeling of ozone-depleting substances shall be in accordance with 42 U.S.C. 7671j and 40 CFR Part 82.

Item XIII—Uruguay Round (1996 Code) (FAR Case 95-304)

The interim rule published in FAC 90-36 is converted to a final rule without further change. The rule amends FAR Parts 25 and 52 to implement the renegotiated Government Procurement Agreement (1996 Code) (Uruguay Round). This agreement is implemented in statute by the Uruguay Round Agreement Act, Public Law 103-465, which amends the Trade Agreements Act of 1979 (19 U.S.C. 2501-2582).

Item XIV—Implementation of the North American Free Trade Agreement Implementation Act (FAR Case 93-310)

This interim rule amends the rule published in FAC 90-19 to implement the North American Free Trade Agreement (NAFTA) Implementation Act. This interim rule (1) adds language at FAR 25.402(g) to address the applicability of NAFTA to the acquisition of services; (2) adds language at 27.208 to address the use of patented technology when the patent holder is from a NAFTA country; (3) amends the provision at 52.225-20 to clarify procedures for evaluation of

offers; (4) adds an alternate to the provision at 52.225-20 and the clause at 52.225-21 for use in acquisitions between \$25,000 and \$50,000; and (5) adds a new clause at 52.225-22 for use in construction contracts awarded outside the United States with an estimated value of \$6,500,000 or more.

Item XV—Caribbean Basin Countries (FAR Case 95-030)

This final rule amends FAR 25.402(b) to reflect the U.S. Trade Representative's extension, through September 30, 1996, of the designation of Caribbean Basin products as eligible products under the Trade Agreements Act.

Item XVI—Fluctuating Exchange Rates (FAR Case 92-048)

This final rule revises FAR 25.501 and adds a new provision at 52.225-4 to address procedures for evaluation of offers priced in a foreign currency.

Item XVII—Irrevocable Letters of Credit and Alternatives to Miller Act Bonds (FAR Case 95-301)

This interim rule amends FAR Part 28 and the clause at 52.228-2, and adds new clauses at 52.228-13 and 52.228-14 to (1) provide for use of irrevocable letters of credit as an alternative to corporate or individual sureties as security for Miller Act bonds on construction contracts exceeding \$100,000; and (2) provide alternative payment protections for construction contracts between \$25,000 and \$100,000, which are no longer subject to the Miller Act, in accordance with Section 4104(b) of the Federal Acquisition Streamlining Act of 1994 (Public Law 103-355).

Item XVIII—Part 31 Agency Supplements (FAR Case 94-606)

This final rule amends FAR 31.101 to remove the requirement for Civilian Agency Acquisition Council approval of agency supplements to FAR Part 31. Approval requirements for class deviations from Part 31 remain unchanged.

Item XIX—Records Retention (FAR Case 93-020)

This final rule amends the cost principle at 31.201-2 to explicitly state that contractors must maintain adequate cost records in order to be reimbursed for costs claimed.

Item XX—Legislative Lobbying Costs (FAR Case 93-006)

This final rule amends FAR 31.205-22, and deletes 31.205-50, to clarify the

cost principle pertaining to legislative lobbying costs.

Item XXI—Travel Costs (FAR Case 93-022)

This final rule amends the cost principle at FAR 31.205-46 to specify the documentation required to support travel costs incurred by contractors under Government contracts. These documentation requirements are consistent with similar requirements already imposed by Section 274 of the Internal Revenue Code for travel costs claimed for Federal tax purposes.

Item XXII—Prompt Payment Overseas (FAR Case 92-046)

The interim rule published as Item XIII of FAC 90-20, and further amended by Item III of FAC 90-29, is converted to a final rule without change. The rule amended FAR 32.901 and the clauses at 52.232-25, 52.232-26, and 52.232-27 to reflect the applicability of the Prompt Payment Act to contracts awarded and performed outside the United States.

Item XXIII—Alternate Dispute Resolution/Federal Courts Administration Act (FAR Cases 91-062 and 92-301)

The interim rules are converted to final rules without change. The rules were published as Item XIV of FAC 90-20 and Item III of FAC 90-10. The rules amend the claim certification procedures and the Alternative Means of Dispute Resolution (ADR) procedures in FAR Part 33, and implement section 907(a) of the Federal Courts Administration Act of 1992 (Public Law 102-572).

Item XXIV—Defense Production Act Amendments (FAR Case 93-304)

The interim rule published as Item XXIV of FAC 90-23 is converted to a final rule without change. The rule added FAR Subpart 34.1 and a clause at 52.234-1 to provide policy and procedures for the testing, qualification, and use of industrial resources manufactured or developed with assistance provided under Title III of the Defense Production Act of 1950.

Item XXV—Child Care Services (FAR Case 91-106)

The interim rule published as Item XXVII of FAC 90-23 is converted to a final rule without change. The rule amended FAR Subpart 37.1 to require contracting officers to ensure that contracts for child care services include requirements for criminal history background checks of employees in accordance with 42 U.S.C. 13041.

Item XXVI—Quick-Closeout Procedures (FAR Case 95-009)

This final rule amends FAR 42.708 and the clauses at 52.216-7 and 52.216-13 to permit maximum use of quick contract closeout procedures. The rule (1) permits use of quick closeout procedures if total unsettled indirect costs allocable to any one contract do not exceed \$1,000,000; (2) and permits contracting officers to waive the 15 percent restriction on unsettled indirect costs, based upon a risk assessment that considers certain factors.

Item XXVII—Quality Assurance Actions—Electronic Screening (FAR Case 92-031)

This final rule amends FAR 46.101 to add definitions of "latent defect" and "patent defect."

Item XXVIII—Quality Assurance Nonconformances (FAR Case 92-027)

This final rule amends FAR Subpart 46.1 to provide standard terminology and guidance pertaining to supplies and services that do not meet contract requirements.

Item XXIX—Solicitation Provisions—Contract Clauses (FAR Case 95-603)

This final rule amends the provision at FAR 52.211-1 to delete the statement that copies of specifications may be obtained from General Services Administration Business Service Centers. Specifications are no longer available from these centers.

Item XXX—Contract Award—Sealed Bidding—Construction (FAR Case 91-031)

This final rule amends the provision at FAR 52.214-19 to advise offerors that, for construction solicitations, the Government may reject bids as nonresponsive if the prices are materially unbalanced. This amendment is consistent with the existing language in the provisions at 52.214-10 and 52.215-16, which are used in solicitations for other than construction.

Item XXXI—Small Business Innovation Research Rights in Data (FAR Case 93-305)

The interim rule published as Item XIX of FAC 90-20 is converted to a final rule without change. The rule amended the clause at FAR 52.227-20 to increase a small business concern's data rights retention period from two to four years, in accordance with the Small Business Innovation Research Program Policy Directive published by the Small Business Administration.

Item XXXII—Inspection Clauses—Fixed Price (FAR Case 92-001)

This final rule amends the clauses at FAR 52.246-2, 52.246-4, 52.246-7, 52.246-12, and 52.246-13 to replace the phrase “without additional charge” with the phrase “at no increase in contract price” for clarity.

Item XXXIII—Termination for Convenience (FAR Case 91-102)

This final rule amends the clause at 52.249-2 to clarify language pertaining to settlement of contract termination costs and rights of appeal under the Disputes clause.

Corrections and Technical Amendments (Loose-leaf edition only)

Revisions to FAR Utility Matrix (FAR Case 92-617)

Section 52.301, Solicitation provisions and contract clauses (Matrix), is amended in the Utility Services column. The matrix is not carried in the *Code of Federal Regulations* and, therefore, not published in the Federal Register. Subscribers to the loose-leaf edition will receive matrix changes in FAC 90-39.

Table of Standard Forms and OMB Expiration Dates

Under the provisions of the Paperwork Reduction Act of 1995 (44

U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has obtained Office of Management and Budget (OMB) clearance of all information collection requirements contained in the FAR. In lieu of reissuing Standard and Optional Forms to reflect extended OMB approval dates, and to reduce costs of reprinting forms, FAR users should make appropriate pen-and-ink changes on any listed forms containing expiration dates that differ from the entries published below:

TABLE OF STANDARD FORMS AND OMB EXPIRATION DATES

Standard form	Edition	OMB control No.	Expiration date
SF 24 ...	Rev. 1/90	9000-0045	9/30/98
SF 25 ...	Rev. 1/90	9000-0045	9/30/98
SF 25A	Rev. 1/90	9000-0045	9/30/98
SF 25B	Rev. 10/83	9000-0045	9/30/98
SF 28 ...	Rev. 1/90	9000-0001	9/30/98
SF 34 ...	Rev. 1/90	9000-0045	9/30/98
SF 35 ...	Rev. 1/90	9000-0045	9/30/98
SF 119	Rev. 1/90	9000-0003	9/30/98
SF 129	Rev. 6/90	9000-0002	10/31/97
SF 254	Rev. 11/92	9000-0004	3/31/99
SF 255	Rev. 11/92	9000-0005	4/30/99
SF 273	Rev. 8/90	9000-0045	9/30/98
SF 274	Rev. 8/90	9000-0045	9/30/98
SF 275	Rev. 8/90	9000-0045	9/30/98
SF 294	Rev. 10/95	9000-0006	3/31/98
SF 295	Rev. 10/95	9000-0007	3/31/98
SF 1403	Rev. 9/88	9000-0011	10/31/97
SF 1404	Rev. 9/88	9000-0011	10/31/97
SF 1405	Rev. 9/88	9000-0011	10/31/97
SF 1406	Rev. 9/88	9000-0011	10/31/97
SF 1407	Rev. 9/88	9000-0011	10/31/97
SF 1408	Rev. 9/88	9000-0011	10/31/97
SF 1411	Rev. 10/95	9000-0013	9/30/98
SF 1413	Rev. 6/89	9000-0014	4/30/98
SF 1416	Rev. 1/90	9000-0045	9/30/98
SF 1417	Rev. 8/90	9000-0037	9/30/98
SF 1423	Rev. 12/88	9000-0015	5/31/98
SF 1424	Rev. 7/89	9000-0015	5/31/98
SF 1426	Rev. 7/89	9000-0015	5/31/98
SF 1427	Rev. 7/89	9000-0015	5/31/98
SF 1428	Rev. 7/89	9000-0015	5/31/98
SF 1429	Rev. 7/89	9000-0015	5/31/98
SF 1430	Rev. 7/89	9000-0015	5/31/98
SF 1431	Rev. 7/89	9000-0015	5/31/98
SF 1432	Rev. 7/89	9000-0015	5/31/98
SF 1433	Rev. 7/89	9000-0015	5/31/98
SF 1434	Rev. 7/89	9000-0015	5/31/98
SF 1435	Rev. 7/89	9000-0012	5/31/98
SF 1436	Rev. 7/89	9000-0012	5/31/98
SF 1437	Rev. 7/89	9000-0012	5/31/98
SF 1438	Rev. 7/89	9000-0012	5/31/98
SF 1439	Rev. 7/89	9000-0012	5/31/98
SF 1440	Rev. 7/89	9000-0012	5/31/98
SF 1443	Rev. 10/82	9000-0010	8/31/96
SF 1444	Rev. 10/87	9000-0089	4/30/99
SF 1445	Rev. 10/87	9000-0089	4/30/99
SF 1446	Rev. 10/87	9000-0089	4/30/99
SF 1448	10/95 edition ...	9000-0013	9/30/98
SF 1449	10/95 edition ...	9000-0136	9/30/98

Dated: June 4, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Federal Acquisition Circular Number 90-39

Federal Acquisition Circular (FAC) 90-39 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 90-39 is effective August 19, 1996, except for Item XV which was effective September 30, 1995, and Items I, IV, VI, VIII, X, XII through XIV, XVII, XXII through XXV, and XXXI, which are effective June 20, 1996.

Dated: May 16, 1996.

Eleanor R. Spector,

Director, Defense Procurement.

Dated: May 16, 1996.

Ida M. Ustad,

Deputy Associate Administrator for Acquisition Policy, General Services Administration.

Dated: May 6, 1996.

L.W. Bailets,

Acting Associate Administrator for Procurement National Aeronautics and Space Administration.

[FR Doc. 96-14515 Filed 6-19-96; 8:45 am]

BILLING CODE 6820-EP-P

48 CFR Parts 4 and 52

[FAC 90-39; FAR Case 92-050; Item I]

RIN 9000-AG41

Federal Acquisition Regulation; Double-Sided Copying

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule adopted as final with changes.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to a final rule which amends the Federal Acquisition Regulation (FAR) to encourage contractors to maximize the use of double-sided copying on recycled paper when submitting written documents related to an acquisition. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: June 20, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph De Stefano at (202) 501-1758 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-39, FAR case 92-050.

SUPPLEMENTARY INFORMATION:

A. Background

These revisions are based on a portion of Executive Order 12873, Federal Acquisition, Recycling, and Waste Prevention, dated October 20, 1993 (58 FR 54911), which encourages the use of double-sided copying on recycled paper for documents printed within the Government and under Government contracts.

An interim rule was published in the Federal Register at 60 FR 28493, May 31, 1995, as Item I, FAC 90-27. This interim rule amended FAR Part 4 to add a new subpart 4.3—Paper Documents, and amended FAR Part 52 to add a clause at 52.204-4, Printing/Copying Double-Sided on Recycled Paper. An additional amendment to section 4.304 was published at 60 FR 34744 on July 3, 1995, to eliminate the requirement for use of the clause at 52.204-4 in solicitations and contracts valued at or below the simplified acquisition threshold. Further amendments have been made in the final rule to implement Executive Order 12995 of March 25, 1996 (61 FR 13645, March 28, 1996), which amended Executive Order 12873 to revise the minimum content standards for printing and writing paper.

Seven comments from six sources were received in response to the interim rule. All comments were considered in developing the final rule.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule contains no mandatory requirements for offerors or contractors. The rule encourages, but does not require, the use of double-sided copying on recycled paper when submitting written documents to the Government. No comments were received on the impact of this rule on

small entities during the public comment period.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 4 and 52

Government procurement.

Dated: June 4, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Interim Rule Adopted as Final With Changes

Accordingly, the interim rule amending CFR Parts 4 and 52, which was published at 60 FR 28493, May 31, 1995 (FAC 90-27, Item I), and amended at 60 FR 34744, July 3, 1995, is adopted as a final rule with amendments at sections 4.301 and 52.204-4.

1. The authority citation for 48 CFR Parts 4 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 4—ADMINISTRATIVE MATTERS

4.301 [Amended]

2. Section 4.301 is amended by removing the period at the end of the sentence and inserting in its place “, as amended by Executive Order 12995, March 25, 1996.”

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 52.204-4 is amended by revising the date of the clause to read “(JUN 1996)”; in paragraph (a) of the clause by inserting after “October 20, 1993,” the phrase “as amended by Executive Order 12995, dated March 25, 1996,”; revising “20%” to read “20 percent”; and by revising paragraph (b) to read as follows:

52.204-4 Printing/Copying Double-Sided on Recycled Paper.

* * * * *

PRINTING/COPYING DOUBLE-SIDED
RECYCLED PAPER (JUN 1996)

* * * * *

(b) The 20 percent standard applies to high-speed copier paper, offset paper, forms

bond, computer printout paper, carbonless paper, file folders, white woven envelopes, and other uncoated printed and writing paper, such as writing and office paper, book paper, cotton fiber paper, and cover stock. An alternative to meeting the 20 percent postconsumer material standard is 50 percent recovered material content of certain industrial by-products.

(End of clause)

[FR Doc. 96-14516 Filed 6-19-96; 8:45 am]

BILLING CODE 6820-EP-P

48 CFR Parts 4, 27, and 52

[FAC 90-39; FAR Case 95-004; Item II]

RIN 9000-AG95

Federal Acquisition Regulation; National Industrial Security Program Operating Manual (NISPOM)

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) to reflect the applicability of the National Industrial Security Program Operating Manual (NISPOM). The NISPOM updates and replaces the DOD Industrial Security Manual for Safeguarding Classified Information (DOD 5220.22-M). This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: August 19, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Jack O'Neill at (202) 501-3856 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-39, FAR case 95-004.

SUPPLEMENTARY INFORMATION:

A. Background

The National Industrial Security Program was established by Executive Order 12829, "National Industrial Security Program" (58 FR 3479). Section 201 of the Executive order directs the Secretary of Defense, in consultation with all affected agencies and with the concurrence of the Secretary of Energy, the Chairman of the Nuclear Regulatory Commission, and the Director of Central Intelligence, to issue and maintain a

National Industrial Security Program Operating Manual.

B. Regulatory Flexibility Act

This final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98-577, and publication for public comment is not required. Therefore, the Regulatory Flexibility Act does not apply. However, comments from small entities concerning the affected FAR subparts will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAC 90-39, FAR case 95-004), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 4, 27, and 52

Government procurement.

Dated: June 4, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 4, 27, and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 4, 27, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 4—ADMINISTRATIVE MATTERS

2. Section 4.402 is amended by revising paragraphs (a) and (b); and in paragraph (c) by removing "Section VIII of the ISR" and inserting in its place "Chapter 10 of the NISPOM". The revised text reads as follows:

4.402 General.

(a) Executive Order 12829, January 6, 1993 (58 FR 3479, January 8, 1993), entitled "National Industrial Security Program" (NISP), establishes a program to safeguard Federal Government classified information that is released to contractors, licensees, and grantees of the United States Government. Executive Order 12829 amends Executive Order 10865, February 20, 1960 (25 FR 1583, February 25, 1960), entitled "Safeguarding Classified Information Within Industry," as amended by Executive Order 10909,

January 17, 1961 (26 FR 508, January 20, 1961).

(b) The National Industrial Security Program Operating Manual (NISPOM) incorporates the requirements of these Executive Orders. The Secretary of Defense, in consultation with all affected agencies and with the concurrence of the Secretary of Energy, the Chairman of the Nuclear Regulatory Commission, and the Director of Central Intelligence, is responsible for issuance and maintenance of this Manual. The following DOD publications implement the program:

(1) *National Industrial Security Program Operating Manual* (NISPOM) (DOD 5220.22-M).

(2) *Industrial Security Regulation* (ISR) (DOD 5220.22-R).

* * * * *

4.403 and 4.404 [Amended]

3. Section 4.403 is amended in paragraphs (a)(1)(i), (b)(1), (c)(1), and (c)(2), by revising "DISP" to read "NISP"; and section 4.403(c)(1) is amended in the last sentence by removing "Section VII of".

3a. Section 4.404(d) is amended by revising "DISP" to read "NISP".

PART 27—PATENTS, DATA, AND COPYRIGHTS

27.207-1 [Amended]

4. Section 27.207-1 is amended in the second sentence of paragraph (b) by removing "Department of Defense Industrial Security Manual for Safeguarding Classified Security Information" and inserting in its place "National Industrial Security Program Operating Manual".

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.204-2 [Amended]

5. Section 52.204-2 is amended by revising the introductory paragraph to read as set forth below; by revising the date of the clause to read "(AUG 1996)"; and in paragraph (b)(1) of the clause by removing "Department of Defense Industrial Security Manual for Safeguarding Classified Information" and inserting in its place "National Industrial Security Program Operating Manual". The revised text reads as follows:

52.204-2 Security requirements.

As prescribed in 4.404(a), insert the following clauses:

* * * * *

[FR Doc. 96-14517 Filed 6-19-96; 8:45 am]

BILLING CODE 6820-EP-P

48 CFR Part 6

[FAC 90-39; FAR Case 96-302; Item III]

RIN 9000-AH00

**Federal Acquisition Regulation;
Justification and Approval Thresholds**

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) to raise the dollar thresholds pertaining to approval for the use of other than full and open competition in the acquisition process. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: August 19, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph De Stefano at (202) 501-1758 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-39, FAR case 96-302.

SUPPLEMENTARY INFORMATION:**A. Background**

Section 4102 of the Fiscal Year 1996 Defense Authorization Act (Public Law 104-106) amends 10 U.S.C. 2304(f)(1)(B) and 41 U.S.C. 253(f)(1)(B) to raise the dollar thresholds at which approval for the use of other than full and open competition must be obtained from the competition advocate, the head of the procuring activity, or the senior procurement executive. Section 4102 provides for approval of the justification for other than full and open competition by (1) the competition advocate, for proposed contracts over \$500,000, but not exceeding \$10,000,000; (2) the head of the procuring activity, or designee, for proposed contracts over \$10,000,000, but not exceeding \$50,000,000; and (3) the senior procurement executive, for proposed contracts over \$50,000,000.

B. Regulatory Flexibility Act

The final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98-577, and publication for public comments is not required. Therefore, the Regulatory Flexibility Act does not apply. However, comments from small

entities concerning the affected subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAC 90-39, FAR case 96-302), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 6

Government procurement.

Dated: June 4, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 6 is amended as set forth below:

**PART 6—COMPETITION
REQUIREMENTS**

1. The authority citation for 48 CFR Part 6 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 6.304 is amended in paragraph (a)(1) by revising “\$100,000” to read “\$500,000”; in (a)(2) by revising “\$100,000” to read “\$500,000” and “\$1,000,000” to read “\$10,000,000”; in (a)(3) introductory text by revising “\$1,000,000” to read “\$10,000,000” and “\$10,000,000” to read “\$50,000,000”; and revising (a)(4) to read as follows:

6.304 Approval of the justification.

(a) * * *

(4) For a proposed contract over \$50,000,000, by the senior procurement executive of the agency designated pursuant to the OFPP Act (41 U.S.C. 414(3)) in accordance with agency procedures. This authority is not delegable except in the case of the Under Secretary of Defense (Acquisition and Technology), acting as the senior procurement executive for the Department of Defense.

* * * * *

[FR Doc. 96-14518 Filed 6-19-96; 8:45 am]

BILLING CODE 6820-EP-P

48 CFR Parts 14, 15, 17, 25, and 52

[FAC 90-39; FAR Case 93-606; Item IV]

RIN 9000-AF39

**Federal Acquisition Regulation;
Implementation of Memorandum of
Understanding Between the United
States of America and the European
Economic Community on Government
Procurement and Sanctions Imposed
on the European Community**

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule adopted as final.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) to implement the Memorandum of Understanding Between the United States of America and the European Economic Community on Government Procurement (MOU) and to implement the sanctions imposed by the President on the European community (EC) prohibiting the award of certain contracts for EC products, services, and construction. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: June 20, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Peter O'Such at (202) 501-1759 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-39, FAR case 93-606.

SUPPLEMENTARY INFORMATION:**A. Background**

An interim rule was published in the Federal Register on May 28, 1993 (58 FR 31140) (FAC 90-18). Revisions based on the analysis of public comments were incorporated in the interim rule published in FAC 90-19 as part of the implementation of the North American Free Trade Agreement Implementation Act (FAR case 93-310) (59 FR 544, January 5, 1994). The rule was further amended by an interim rule published in FAC 90-36 to implement the Uruguay Round Agreement Act (FAR case 95-304) (60 FR 67514, December 29, 1995).

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, applies to this final

rule, and a Final Regulatory Flexibility Analysis has been performed. A copy of the analysis may be obtained from the FAR Secretariat.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 14, 15, 17, 25, and 52

Government procurement.

Interim Rule Adopted as Final

Accordingly, the interim rule amending 48 CFR Parts 14, 15, 17, 25, and 52, which was published at 58 FR 31140, May 28, 1993, and amended at 59 FR 544, January 5, 1994, and 60 FR 67514, December 29, 1995, is adopted as final without further change.

The authority citation for 48 CFR Parts 14, 15, 17, 25, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

Dated: June 4, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.
[FR Doc. 96-14519 Filed 6-19-96; 8:45 am]

BILLING CODE 6820-EP-P

48 CFR Parts 14, 15, and 52

[FAC 90-39; FAR Case 91-095; Item V]

RIN 9000-AF48

Federal Acquisition Regulation; Postponement of Bid Openings or Closing Dates

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) to clarify the time for receipt of bids or proposals when an emergency or unanticipated event interrupts normal processes at a Government installation on the date scheduled for receipt of bids or proposals. This regulatory action was not subject to Office of Management and Budget review under Executive Order

12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: August 19, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph De Stefano at (202) 501-1758 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-39, FAR case 91-095.

SUPPLEMENTARY INFORMATION:

A. Background

A proposed rule was published in the Federal Register on November 9, 1993 (58 FR 59618). The proposed rule amended FAR 14.402-3, 15.411, 15.412, 52.214-7, and 52.215-10 to clarify policy regarding rescheduling of the time for receipt of bids or proposals when an emergency or unanticipated event interrupts normal Government processes and urgent requirements do not allow time to formally extend the bid opening or solicitation closing date. One substantive comment was received in response to the proposed rule. After evaluation of this comment, the Councils agreed to finalize the amendments in the proposed rule and to make similar clarifying amendments at FAR 52.214-23, 52.214-32, 52.214-33, and 52.215-36.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because it merely clarifies policy regarding rescheduling of bid opening/solicitation closing dates when an emergency or unanticipated event occurs. No comments were received on the impact of this rule on small entities during the public comment period.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 14, 15, and 52

Government procurement.

Dated: June 4, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 14, 15, and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 14, 15, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 14—SEALED BIDDING

2. Section 14.402-3 is amended by revising paragraph (c) to read as follows:

14.402-3 Postponement of openings.

* * * * *

(c) In the case of paragraph (a)(2) of this section, and when urgent Government requirements preclude amendment of the solicitation as prescribed in 14.208, the time specified for opening of bids will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume. In such cases, the time of actual bid opening shall be deemed to be the time set for bid opening for the purpose of determining "late bids" under 14.304. A note should be made on the abstract of bids or otherwise added to the file explaining the circumstances of the postponement.

PART 15—CONTRACTING BY NEGOTIATION

3. Section 15.411 is amended by revising paragraph (a) to read as follows:

15.411 Receipt of proposals and quotations.

(a) The procedures for receipt and handling of proposals and quotations should be similar to those prescribed in 14.401. Proposals and quotations shall be marked with the date and time of receipt.

* * * * *

4. Section 15.412 is amended by revising paragraph (b) to read as follows:

15.412 Late proposals, modifications, and withdrawals of proposals.

* * * * *

(b) Offerors are responsible for submitting offers, and any modifications to them, so as to reach the Government office designated in the solicitation on time. If an emergency or unanticipated event interrupts normal Government processes so that proposals cannot be received at the office designated for receipt of proposals by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation closing date as usually prescribed by 15.410, the

time specified for receipt of proposals will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume. If no time is specified in the solicitation, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that proposals are due.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5. Section 52.214-7 is amended in the provision by revising the date in the heading and adding paragraph (h) to read as follows:

52.214-7 Late Submissions, Modifications, and Withdrawals of Bids.

* * * * *

Late Submissions, Modifications, and Withdrawals of Bids (Aug 1996)

* * * * *

(h) If an emergency or unanticipated event interrupts normal Government processes so as to cause postponement of the scheduled bid opening, and urgent Government requirements preclude amendment of the solicitation or other notice of an extension of the opening date, the time specified for receipt of bids will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume.

(End of provision)

6. Section 52.214-23 is amended in the provision by revising the date in the heading and adding paragraph (g) to read as follows:

52.214-23 Late Submissions, Modifications, and Withdrawals of Technical Proposals Under Two-Step Sealed Bidding.

* * * * *

Late Submissions, Modifications, and Withdrawals of Technical Proposals Under Two-Step Sealed Bidding (Aug 1996)

* * * * *

(g) If an emergency or unanticipated event interrupts normal Government processes so that technical proposals cannot be received at the office designated for receipt of technical proposals by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation or other notice of an extension of the closing date, the time specified for receipt of technical proposals will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume. If no time is specified in the solicitation, the time for receipt is 4:30 p.m., local time, for the designated Government office.

(End of provision)

7. Section 52.214-32 is amended in the provision by revising the date in the

heading and adding paragraph (f) to read as follows:

52.214-32 Late Submissions, Modifications, and Withdrawals of Bids (Overseas).

* * * * *

Late Submissions, Modifications, and Withdrawals of Bids (Overseas) (Aug 1996)

* * * * *

(f) If an emergency or unanticipated event interrupts normal Government processes so as to cause postponement of the scheduled bid opening, and urgent Government requirements preclude amendment of the solicitation or other notice of an extension of the opening date, the time specified for receipt of bids will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume.

(End of provision)

8. Section 52.214-33 is amended in the provision by revising the date in the heading and adding paragraph (e) to read as follows:

52.214-33 Late Submissions, Modifications, and Withdrawals of Technical Proposals Under Two-Step Sealed Bidding (Overseas).

* * * * *

Late Submissions, Modifications, and Withdrawals of Technical Proposals Under Two-Step Sealed Bidding (Overseas) (Aug 1996)

* * * * *

(e) If an emergency or unanticipated event interrupts normal Government processes so that technical proposals cannot be received at the office designated for receipt of technical proposals by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation or other notice of an extension of the closing date, the time specified for receipt of technical proposals will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume. If no time is specified in the solicitation, the time for receipt is 4:30 p.m., local time, for the designated Government office.

(End of provision)

9. Section 52.215-10 is amended by revising the date in the heading of the provision, and adding paragraph (i) to read as follows:

52.215-10 Late Submissions, Modifications, and Withdrawals of Proposals.

* * * * *

Late Submissions, Modifications, and Withdrawals of Proposals (Aug 1996)

* * * * *

(i) If an emergency or unanticipated event interrupts normal Government processes so that proposals cannot be received at the office designated for receipt of proposals by the exact time specified in the solicitation,

and urgent Government requirements preclude amendment of the solicitation or other notice of an extension of the closing date, the time specified for receipt of proposals will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume. If no time is specified in the solicitation, the time for receipt is 4:30 p.m., local time, for the designated Government office.

(End of provision)

10. Section 52.215-36 is amended by revising the date in the heading of the provision, and adding paragraph (g) to read as follows:

52.215-36 Late Submissions, Modifications, and Withdrawals of Proposals (Overseas).

* * * * *

Late Submissions, Modifications, and Withdrawals of Proposals (Overseas) (Aug 1996)

* * * * *

(g) If an emergency or unanticipated event interrupts normal Government processes so that proposals cannot be received at the office designated for receipt of proposals by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation or other notice of an extension of the closing date, the time specified for receipt of proposals will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume. If no time is specified in the solicitation, the time for receipt is 4:30 p.m., local time, for the designated Government office.

(End of provision)

[FR Doc. 96-14520 Filed 6-19-96; 8:45 am]

BILLING CODE 6820-EP-P

48 CFR Part 15

[FAC 90-39; FAR Case 95-027; Item VI]

RIN 9000-AG97

Federal Acquisition Regulation; Armed Services Pricing Manual

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) to replace the Armed Services Pricing Manual, as the reference guide for pricing and negotiation personnel, with five desk references jointly prepared by the Air Force Institute of Technology and the Federal Acquisition Institute.

This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: June 20, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy F. Olson at (202) 501-3221 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-39, FAR case 95-027.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends FAR 15.805-1 to replace the Armed Services Pricing Manual, as the reference guide for pricing and negotiation personnel, with five desk references jointly prepared by the Air Force Institute of Technology and the Federal Acquisition Institute.

B. Regulatory Flexibility Act

The final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98-577, and publication for public comments is not required. Therefore, the Regulatory Flexibility Act does not apply. However, comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAC 90-39, FAR case 95-027), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 15

Government procurement.

Dated: June 4, 1996.

Edward C. Loeb,
Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 15 is amended as set forth below:

1. The authority citation for 48 CFR Part 15 continues to read as follows:

PART 15—CONTRACTING BY NEGOTIATION

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 15.805-1 is amended by revising paragraph (d) to read as follows:

15.805-1 General.

* * * * *

(d) The Air Force Institute of Technology (AFIT) and the Federal Acquisition Institute (FAI) jointly prepared a series of five desk references to guide pricing and negotiation personnel. The five desk references are: Price Analysis, Cost Analysis, Quantitative Techniques for Contract Pricing, Advanced Issues in Contract Pricing, and Federal Contract Negotiation Techniques. The references provide detailed discussion and examples applying pricing policies to pricing problems. They are to be used for instruction and professional guidance. However, they are not directive and should be considered informational only. Copies of the desk references are available on CD-ROM which also contains the FAR, the FIRM, the FTR and various other regulatory and training materials. The CD-ROM may be purchased by annual subscription (updated quarterly), or individually (reference "List ID GSAFF," Stock No. 722-009-0000-2). The individual CD-ROMs or subscription to the CD-ROM may be purchased from the Superintendent of Documents, U.S. Government Printing Office, by telephone (202) 512-1800 or facsimile (202) 512-2550, or by mail order from the Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954. Free copies of the desk references are available on the World Wide Web, Internet address: <http://www.gsa.gov/staff/v/training.htm>

[FR Doc. 96-14521 Filed 6-19-96; 8:45 am]

BILLING CODE 6820-EP-P

48 CFR Parts 16, 42, and 52

[FAC 90-39; FAR Case 94-011; Item VII]

RIN 9000-AG92

Federal Acquisition Regulation; Predetermined Indirect Cost Rates

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) to implement revisions to OMB Circular A-21 that permit predetermined

indirect cost rates for educational institutions to be established for periods of up to four years. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: August 19, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph De Stefano at (202) 501-1758 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-39, FAR case 94-011.

SUPPLEMENTARY INFORMATION:

A. Background

On July 26, 1993, the Office of Management and Budget published revisions to OMB Circular A-21 (58 FR 39996) which include an increase in the period of time for which predetermined indirect cost rates for educational institutions may be applicable. The FAR is amended to permit use of predetermined indirect cost rates for educational institutions for periods of up to four years, in accordance with OMB circular A-21.

B. Regulatory Flexibility Act

This final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98-577, and publication for public comment is not required. Therefore, the Regulatory Flexibility Act does not apply. However, comments from small entities concerning the affected FAR subparts will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAC 90-39, FAR case 94-011), in correspondence.

C. Paperwork Reduction Act

The final rule does not impose any additional information collection requirements which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.* However, a request for approval of an extension of the existing information collection requirement concerning 9000-0069, Indirect Cost Rates, is being submitted to the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 16, 42, and 52

Government procurement.

Dated: June 4, 1996.
Edward C. Loeb,
Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 16, 42, and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 16, 42, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 16—TYPES OF CONTRACTS

2. Section 16.307 is amended by adding a sentence to the end of paragraph (i) to read as follows:

16.307 Contract clauses.

* * * * *

(i) * * * If the contract is a facilities contract, modify paragraph (c) by deleting the words "Subpart 31.1" and substituting for them "section 31.106."

PART 42—CONTRACT ADMINISTRATION

3. Section 42.705-3 is amended by revising paragraphs (b)(4)(i) and (b)(6) to read as follows:

42.705-3 Educational institutions.

* * * * *

(b) * * *

(4)(i) If predetermined rates are to be used and no rates have been previously established for the institution's current fiscal year, the agency shall obtain from the institution a proposal for predetermined rates.

* * * * *

(6) Predetermined indirect cost rates shall be applicable for a period of not more than four years. The agency shall obtain the contractor's proposal for new predetermined rates sufficiently in advance so that the new rates, based on current data, may be promptly negotiated near the beginning of the new fiscal year or other period agreed to by the parties (see paragraphs (b) and (d) of the clause at 52.216-15, Predetermined Indirect Cost Rates).

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Section 52.216-15 is amended by revising the introductory text and date of the clause; in the first sentence of paragraph (b) by removing the comma after the word "year" and adding "(or other period specified in the Schedule)"; in the second sentence by revising the word "rate" to read "rates" and removing the period at the end of

the sentence and inserting in its place "or other period specified in the Schedule."; in the third sentence by revising the word "Negotiations" to read "Negotiation"; revising paragraph (d)(3); and in paragraph (g) by inserting after the word "year" the parenthetical "(or other period specified in the Schedule)". The revised text read as follows:

52.216-15 Predetermined Indirect Cost Rates.

As prescribed in 16.307(i), insert the following clause:

PREDETERMINED INDIRECT COST RATES (AUG 1996)

* * * * *

(d) * * *

(3) the period for which the rates apply, and

* * * * *

[FR Doc. 96-14522 Filed 6-19-96; 8:45 am]

BILLING CODE 6820-EP-P

48 CFR Part 19

[FAC 90-39; FAR Case 94-600; Item VIII]

Federal Acquisition Regulation; Small Business Size Standards

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: Amendments in this document will bring the Federal Acquisition Regulation into conformance with revised small business size standards published by the Small Business Administration (SBA). This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: June 20, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein at (202) 501-3775. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405, (202) 501-4755. Please cite FAC 90-39 (FAR case 94-600).

SUPPLEMENTARY INFORMATION:

A. Background

SBA has revised its size standards regulations at 13 CFR Part 121 (61 FR 3280, January 31, 1996), effective March 1, 1996. Corrections were published (61 FR 6412, February 20, 1996; 61 FR 7306,

February 27, 1996; and 61 FR 7986, March 1, 1996). As a result, the table of *Size Standards* shown in the FAR at 19.102 has been revised to reflect the changes made by SBA through March 1996.

SBA currently has two size standards publications available via the Internet on SBA ONLINE. They are the table of *Size Standards*, which currently appears in the FAR, and a copy of 13 CFR 121, the *Size Regulations*, published in the Federal Register on January 31, 1996.

B. Regulatory Flexibility Act

These changes derive directly from SBAs regulations, without substantive change. Therefore, the final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98-577, and publication for public comments is not required. The Regulatory Flexibility Act does not apply. However, comments from small entities concerning the affected subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAC 90-39, FAR case 94-600), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 19

Government procurement.

Dated: June 4, 1996.

Edward C. Loeb,
Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 19 is amended as set forth below:

PART 19—SMALL BUSINESS PROGRAMS

1. The authority citation for 48 CFR Part 19 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 19.102 is amended by revising the table consisting of industry size standards and revising the footnotes to read as follows:

19.102 Size standards.

* * * * *

SIZE STANDARDS BY SIC INDUSTRY 3/96

SIC	Description (N.E.C. = Not elsewhere classified)	Size standards in number of employees or millions of dollars
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See Footnotes on Menu
Division A—Agriculture, Forestry and Fishing

Major Group 01—Agricultural Production—Crops

0111	Wheat	\$0.5
0112	Rice	\$0.5
0115	Corn	\$0.5
0116	Soybeans	\$0.5
0119	Cash Grains, N.E.C.	\$0.5
0131	Cotton	\$0.5
0132	Tobacco	\$0.5
0133	Sugarcane and Sugar Beets	\$0.5
0134	Irish Potatoes	\$0.5
0139	Field Crops, Except Cash Grains, N.E.C.	\$0.5
0161	Vegetables and Melons	\$0.5
0171	Berry Crops	\$0.5
0172	Grapes	\$0.5
0173	Tree Nuts	\$0.5
0174	Citrus Fruits	\$0.5
0175	Deciduous Tree Fruits	\$0.5
0179	Fruits and Tree Nuts, N.E.C.	\$0.5
0181	Ornamental Floriculture Nursery Products	\$0.5
0182	Food Crops Grown Under Cover	\$0.5
0191	General Farms, Primarily Crop	\$0.5

Major Group 02—Livestock and Animal Specialties

0211	Beef Cattle Feedlots (Custom)	\$1.5
0212	Beef Cattle, Except Feedlots	\$0.5
0213	Hogs	\$0.5
0214	Sheep and Goats	\$0.5
0219	General Livestock, Except Dairy and Poultry	\$0.5
0241	Dairy Farms	\$0.5
0251	Broiler, Fryer, and Roaster Chickens	\$0.5
0252	Chicken Eggs	\$9.0
0253	Turkeys and Turkey Eggs	\$0.5
0254	Poultry Hatcheries	\$0.5
0259	Poultry and Eggs, N.E.C.	\$0.5
0271	Fur-Bearing Animals and Rabbits	\$0.5
0272	Horses and Other Equines	\$0.5
0273	Animal Aquaculture	\$0.5
0279	Animal Specialties, N.E.C.	\$0.5
0291	General Farms, Primarily Livestock and	\$0.5

Animal Specialties**Major Group 07—Agricultural Services**

0711	Soil Preparation Services	\$5.0
0721	Crop Planting, Cultivating, and Protecting	\$5.0
0722	Crop Harvesting, Primarily by Machine	\$5.0
0723	Crop Preparation Service for Market, Except Cotton Ginning	\$5.0
0724	Cotton Ginning	\$5.0
0741	Veterinary Services for Livestock	\$5.0
0742	Veterinary Services for Animal Specialties	\$5.0
0751	Livestock Services, Except Veterinary	\$5.0
0752	Animal Specialty Services, Except Veterinary	\$5.0
0761	Farm Labor Contractors and Crew Leaders	\$5.0
0762	Farm Management Services	\$5.0
0781	Landscape Counseling and Planning	\$5.0
0782	Lawn and Garden Services	\$5.0
0783	Ornamental Shrub and Tree Services	\$5.0

Major Group 08—Forestry

0811	Timber Tracts	\$5.0
0831	Forest Nurseries and Gathering of Forest Products	\$5.0

SIZE STANDARDS BY SIC INDUSTRY 3/96—Continued

SIC	Description (N.E.C. = Not elsewhere classified)	Size standards in number of employees or millions of dollars
0851	Forestry Services	\$5.0
Major Group 09—Fishing, Hunting, and Trapping		
0912	Finfish	\$3.0
0913	Shellfish	\$3.0
0919	Miscellaneous Marine Products	\$3.0
0921	Fish Hatcheries and Preserves	\$3.0
0971	Hunting and Trapping, and Game Propagation	\$3.0
Division B—Mining		
Major Group 10—Metal Mining		
1011	Iron Ores	500
1021	Copper Ores	500
1031	Lead and Zinc Ores	500
1041	Gold Ores	500
1044	Silver Ores	500
1061	Ferroalloy Ores, Except Vanadium	500
1081	Metal Mining Services	\$5.0
1094	Uranium-Radium-Vanadium Ores	500
1099	Miscellaneous Metal Ores, N.E.C.	500
Major Group 12—Coal Mining		
1221	Bituminous Coal and Lignite Surface Mining	500
1222	Bituminous Coal Underground Mining	500
1231	Anthracite Mining	500
1241	Coal Mining Services	\$5.0
Major Group 13—Oil and Gas Extraction		
1311	Crude Petroleum and Natural Gas	500
1321	Natural Gas Liquids	500
1381	Drilling Oil and Gas Wells	500
1382	Oil and Gas Field Exploration Services	\$5.0
1389	Oil and Gas Field Services, N.E.C.	\$5.0
Major Group 14—Mining and Quarrying of Nonmetallic Minerals, Except Fuels		
1411	Dimension Stone	500
1422	Crushed and Broken Limestone	500
1423	Crushed and Broken Granite	500
1429	Crushed and Broken Stone, N.E.C.	500
1442	Construction Sand and Gravel	500
1446	Industrial Sand	500
1455	Kaolin and Ball Clay	500
1459	Clay, Ceramic, and Refractory Minerals, N.E.C.	500
1474	Potash, Soda, and Borate Minerals	500
1475	Phosphate Rock	500
1479	Chemical and Fertilizer Mineral Mining, N.E.C.	500
1481	Nonmetallic Minerals Services, Except Fuels	\$5.0
1499	Miscellaneous Nonmetallic Minerals, Except Fuels	500
Division C—Construction		
Major Group 15—Building Construction—General Contractors and Operative Builders		
1521	General Contractors—Single-Family Houses	\$17.0
1522	General Contractors—Residential Buildings, Other Than Single-Family	\$17.0
1531	Operative Builders	\$17.0
1541	General Contractors—Industrial Buildings and Warehouses	\$17.0
1542	General Contractors—Nonresidential Buildings, Other Than Industrial Buildings and Warehouses.	\$17.0

SIZE STANDARDS BY SIC INDUSTRY 3/96—Continued

SIC	Description (N.E.C. = Not elsewhere classified)	Size standards in number of employees or millions of dollars
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Major Group 16—Heavy Construction Other Than Building Construction—Contractors

1611	Highway and Street Construction, Except Elevated Highways	\$17.0
1622	Bridge, Tunnel, and Elevated Highway Construction.	\$17.0
1623	Water, Sewer, Pipeline, and Communications and Power Line Construction	\$17.0
1629	Heavy Construction, N.E.C.	\$17.0
Except,	Dredging and Surface Cleanup Activities	\$13.5 ¹

Major Group 17—Construction—Special Trade Contractors

1711	Plumbing, Heating, and Air-Conditioning	\$7.0
1721	Painting and Paper Hanging	\$7.0
1731	Electrical Work	\$7.0
1741	Masonry, Stone Setting, and Other Stone Work	\$7.0
1742	Plastering, Drywall, Acoustical and Insulation Work	\$7.0
1743	Terrazzo, Tile, Marble, and Mosaic Work	\$7.0
1751	Carpentry Work	\$7.0
1752	Floor Laying and Other Floor Work, N.E.C.	\$7.0
1761	Roofing, Siding, and Sheet Metal Work	\$7.0
1771	Concrete Work	\$7.0
1781	Water Well Drilling	\$7.0
1791	Structural Steel Erection	\$7.0
1793	Glass and Glazing Work	\$7.0
1794	Excavation Work	\$7.0
1795	Wrecking and Demolition Work	\$7.0
1796	Installation or Erection of Building Equipment, N.E.C.	\$7.0
1799	Special Trade Contractors, N.E.C.	\$7.0
Except,	Base Housing Maintenance	\$7.0 ¹²

Division D—Manufacturing ²**Major Group 20—Food and Kindred Products**

2011	Meat Packing Plants	500
2013	Sausages and Other Prepared Meat Products	500
2015	Poultry Slaughtering and Processing	500
2021	Creamery Butter	500
2022	Natural, Processed, and Imitation Cheese	500
2023	Dry, Condensed, and Evaporated Dairy Products	500
2024	Ice Cream and Frozen Desserts	500
2026	Fluid Milk	500
2032	Canned Specialties	1,000
2033	Canned Fruits, Vegetables, Preserves, Jams, and Jellies	500 ³
2034	Dried and Dehydrated Fruits, Vegetables, and Soup Mixes	500
2035	Pickled Fruits and Vegetables, Vegetable Sauces and Seasonings, and Salad Dressings	500
2037	Frozen Fruits, Fruit Juices, and Vegetables	500
2038	Frozen Specialties, N.E.C.	500
2041	Flour and Other Grain Mill Products	500
2043	Cereal Breakfast Foods	1,000
2044	Rice Milling	500
2045	Prepared Flour Mixes and Doughs	500
2046	Wet Corn Milling	750
2047	Dog and Cat Food	500
2048	Prepared Feeds and Feed Ingredients for Animals and Fowls, Except Dogs and Cats	500
2051	Bread and Other Bakery Products, Except Cookies and Crackers	500
2052	Cookies and Crackers	750
2053	Frozen Bakery Products, Except Bread	500
2061	Cane Sugar, Except Refining	500
2062	Cane Sugar Refining	750
2063	Beet Sugar	750
2064	Candy and Other Confectionery Products	500
2066	Chocolate and Cocoa Products	500
2067	Chewing Gum	500
2068	Salted and Roasted Nuts and Seeds	500
2074	Cottonseed Oil Mills	500
2075	Soybean Oil Mills	500
2076	Vegetable Oil Mills, Except Corn, Cottonseed, and Soybean	1,000
2077	Animal and Marine Fats and Oils	500
2079	Shortening, Table Oils, Margarine, and Other Edible Fats and Oils, N.E.C.	750

SIZE STANDARDS BY SIC INDUSTRY 3/96—Continued

SIC	Description (N.E.C. = Not elsewhere classified)	Size standards in number of employees or millions of dollars
2082	Malt Beverages	500
2083	Malt	500
2084	Wines, Brandy, and Brandy Spirits	500
2085	Distilled and Blended Liquors	750
2086	Bottled and Canned Soft Drinks and Carbonated Waters	500
2087	Flavoring Extracts and Flavoring Syrups, N.E.C.	500
2091	Canned and Cured Fish and Seafoods	500
2092	Prepared Fresh or Frozen Fish and Seafoods	500
2095	Roasted Coffee	500
2096	Potato Chips, Corn Chips, and Similar Snacks	500
2097	Manufactured Ice	500
2098	Macaroni, Spaghetti, Vermicelli, and Noodles	500
2099	Food Preparations, N.E.C.	500
Major Group 21—Tobacco Products		
2111	Cigarettes	1,000
2121	Cigars	500
2131	Chewing and Smoking Tobacco and Snuff	500
2141	Tobacco Stemming and Redrying	500
Major Group 22—Textile Mill Products		
2211	Broadwoven Fabric Mills, Cotton	1,000
2221	Broadwoven Fabric Mills, Manmade Fiber and Silk	500
2231	Broadwoven Fabric Mills, Wool (Including Dyeing and Finishing)	500
2241	Narrow Fabric and Other Smallwares Mills: Cotton, Wool, Silk and Manmade Fiber	500
2251	Women's Full-Length and Knee-Length Hosiery, Except Socks	500
2252	Hosiery, N.E.C.	500
2253	Knit Outerwear Mills	500
2254	Knit Underwear and Nightwear Mills	500
2257	Weft Knit Fabric Mills	500
2258	Lace and Warp Knit Fabric Mills	500
2259	Knitting Mills, N.E.C.	500
2261	Finishers of Broadwoven Fabrics of Cotton	1,000
2262	Finishers of Broadwoven Fabrics of Manmade Fiber and Silk	500
2269	Finishers of Textiles, N.E.C.	500
2273	Carpets and Rugs	500
2281	Yarn Spinning Mills	500
2282	Yarn Texturizing, Throwing, Twisting, and Winding Mills	500
2284	Thread Mills	500
2295	Coated Fabrics, Not Rubberized	1,000
2296	Tire Cord and Fabrics	1,000
2297	Nonwoven Fabrics	500
2298	Cordage and Twine	500
2299	Textile Goods, N.E.C.	500
Major Group 23—Apparel and Other Finished Products Made From Fabrics and Similar Materials		
2311	Men's and Boys' Suits, Coats and Overcoats	500
2321	Men's and Boys' Shirts, Except Work Shirts	500
2322	Men's and Boys' Underwear and Nightwear	500
2323	Men's and Boys' Neckwear	500
2325	Men's and Boys' Separate Trousers and Slacks	500
2326	Men's and Boys' Work Clothing	500
2329	Men's and Boys' Clothing, N.E.C.	500
2331	Women's, Misses', and Juniors' Blouses and Shirts	500
2335	Women's, Misses', and Juniors' Dresses	500
2337	Women's, Misses', and Juniors' Suits, Skirts, and Coats	500
2339	Women's, Misses', and Juniors' Outerwear, N.E.C.	500
2341	Women's, Misses', Children's, and Infants' Underwear and Nightwear	500
2342	Brassieres, Girdles, and Allied Garments	500
2353	Hats, Caps, and Millinery	500
2361	Girls', Children's, and Infants' Dresses, Blouses, and Shirts	500
2369	Girls', Children's, and Infants' Outerwear, N.E.C.	500
2371	Fur Goods	500
2381	Dress and Work Gloves, Except Knit and All-Leather	500
2384	Robes and Dressing Gowns	500
2385	Waterproof Outerwear	500

SIZE STANDARDS BY SIC INDUSTRY 3/96—Continued

SIC	Description (N.E.C. = Not elsewhere classified)	Size standards in number of employees or millions of dollars
2386	Leather and Sheep-Lined Clothing	500
2387	Apparel Belts	500
2389	Apparel and Accessories, N.E.C.	500
2391	Curtains and Draperies	500
2392	Housefurnishings, Except Curtains and Draperies	500
2393	Textile Bags	500
2394	Canvas and Related Products	500
2395	Pleating, Decorative and Novelty Stitching, and Tucking for the Trade	500
2396	Automotive Trimmings, Apparel Findings, and Related Products	500
2397	Schiffli Machine Embroideries	500
2399	Fabricated Textile Products, N.E.C.	500

Major Group 24—Lumber and Wood Products, Except Furniture

2411	Logging	500
2421	Sawmills and Planing Mills, General	500
2426	Hardwood Dimension and Flooring Mills	500
2429	Special Product Sawmills, N.E.C.	500
2431	Millwork	500
2434	Wood Kitchen Cabinets	500
2435	Hardwood Veneer and Plywood	500
2436	Softwood Veneer and Plywood	500
2439	Structural Wood Members, N.E.C.	500
2441	Nailed and Lock Corner Wood Boxes and Shook	500
2448	Wood Pallets and Skids	500
2449	Wood Containers, N.E.C.	500
2451	Mobile Homes	500
2452	Prefabricated Wood Buildings and Components	500
2491	Wood Preserving	500
2493	Reconstituted Wood Products	500
2499	Wood Products, N.E.C.	500

Major Group 25—Furniture and Fixtures

2511	Wood Household Furniture, Except Upholstered	500
2512	Wood Household Furniture, Upholstered	500
2514	Metal Household Furniture	500
2515	Mattresses, Foundations, and Convertible Beds	500
2517	Wood Television, Radio, Phonograph, and Sewing Machine Cabinets	500
2519	Household Furniture, N.E.C.	500
2521	Wood Office Furniture	500
2522	Office Furniture, Except Wood	500
2531	Public Building and Related Furniture	500
2541	Wood Office and Store Fixtures, Partitions, Shelving, and Lockers	500
2542	Office and Store Fixtures, Partitions, Shelving, and Lockers, Except Wood	500
2591	Drapery Hardware and Window Blinds and Shades	500
2599	Furniture and Fixtures, N.E.C.	500

Major Group 26—Paper and Allied Products

2611	Pulp Mills	750
2621	Paper Mills	750
2631	Paperboard Mills	750
2652	Setup Paperboard Boxes	500
2653	Corrugated and Solid Fiber Boxes	500
2655	Fiber Cans, Tubes, Drums, and Similar Products	500
2656	Sanitary Food Containers, Except Folding	750
2657	Folding Paperboard Boxes, Including Sanitary	750
2671	Packaging Paper and Plastics Film, Coated and Laminated	500
2672	Coated and Laminated Paper, N.E.C.	500
2673	Plastics, Foil, and Coated Paper Bags	500
2674	Uncoated Paper and Multiwall Bags	500
2675	Die-Cut Paper and Paperboard and Cardboard	500
2676	Sanitary Paper Products	500
2677	Envelopes	500
2678	Stationery, Tablets, and Related Products	500
2679	Converted Paper and Paperboard Products, N.E.C.	500

SIZE STANDARDS BY SIC INDUSTRY 3/96—Continued

SIC	Description (N.E.C. = Not elsewhere classified)	Size standards in number of employees or millions of dollars
Major Group 27—Printing, Publishing, and Allied Industries		
2711	Newspapers: Publishing, or Publishing and Printing	500
2721	Periodicals: Publishing, or Publishing and Printing	500
2731	Books: Publishing, or Publishing and Printing	500
2732	Book Printing	500
2741	Miscellaneous Publishing	500
2752	Commercial Printing, Lithographic	500
2754	Commercial Printing, Gravure	500
2759	Commercial Printing, N.E.C.	500
2761	Manifold Business Forms	500
2771	Greeting Cards	500
2782	Blankbooks, Looseleaf Binders and Devices	500
2789	Bookbinding and Related Work	500
2791	Typesetting	500
2796	Platemaking and Related Services	500
Major Group 28—Chemicals and Allied Products		
2812	Alkalies and Chlorine	1,000
2813	Industrial Gases	1,000
2816	Inorganic Pigments	1,000
2819	Industrial Inorganic Chemicals, N.E.C.	1,000
2821	Plastics Materials, Synthetic Resins, and Nonvulcanizable Elastomers	750
2822	Synthetic Rubber (Vulcanizable Elastomers)	1,000
2823	Cellulosic Manmade Fibers	1,000
2824	Manmade Organic Fibers, Except Cellulosic	1,000
2833	Medicinal Chemicals and Botanical Products	750
2834	Pharmaceutical Preparations	750
2835	In Vitro and In Vivo Diagnostic Substances	500
2836	Biological Products, Except Diagnostic Substances	500
2841	Soap and Other Detergents, Except Specialty Cleaners	750
2842	Specialty Cleaning, Polishing, and Sanitation Preparations	500
2843	Surface Active Agents, Finishing Agents, Sulfonated Oils, and Assistants	500
2844	Perfumes, Cosmetics, and Other Toilet Preparations	500
2851	Paints, Varnishes, Lacquers, Enamels, and Allied Products	500
2861	Gum and Wood Chemicals	500
2865	Cyclic Organic Crudes and Intermediates, and Organic Dyes and Pigments	750
2869	Industrial Organic Chemicals, N.E.C.	1,000
2873	Nitrogenous Fertilizers	1,000
2874	Phosphatic Fertilizers	500
2875	Fertilizers, Mixing Only	500
2879	Pesticides and Agricultural Chemicals, N.E.C.	500
2891	Adhesives and Sealants	500
2892	Explosives	750
2893	Printing Ink	500
2895	Carbon Black	500
2899	Chemicals and Chemical Preparations, N.E.C.	500
Major Group 29—Petroleum Refining and Related Industries		
2911	Petroleum Refining	1,500 ⁴
2951	Asphalt Paving Mixtures and Blocks	500
2952	Asphalt Felts and Coatings	750
2992	Lubricating Oils and Greases	500
2999	Products of Petroleum and Coal, N.E.C.	500
Major Group 30—Rubber and Miscellaneous Plastics Products		
3011	Tires and Inner Tubes	1,000 ⁵
3021	Rubber and Plastics Footwear	1,000
3052	Rubber and Plastics Hose and Belting	500
3053	Gaskets, Packing, and Sealing Devices	500
3061	Molded, Extruded, and Lathe-Cut Mechanical Rubber Goods	500
3069	Fabricated Rubber Products, N.E.C.	500
3081	Unsupported Plastics Film and Sheet	500
3082	Unsupported Plastics Profile Shapes	500
3083	Laminated Plastics Plate, Sheet, and Profile Shapes	500

SIZE STANDARDS BY SIC INDUSTRY 3/96—Continued

SIC	Description (N.E.C. = Not elsewhere classified)	Size standards in number of employees or millions of dollars
3084	Plastics Pipe	500
3085	Plastics Bottles	500
3086	Plastics Foam Products	500
3087	Custom Compounding of Purchased Plastics Resins	500
3088	Plastics Plumbing Fixtures	500
3089	Plastics Products, N.E.C.	500

Major Group 31—Leather and Leather Products

3111	Leather Tanning and Finishing	500
3131	Boot and Shoe Cut Stock and Findings	500
3142	House Slippers	500
3143	Men's Footwear, Except Athletic	500
3144	Women's Footwear, Except Athletic	500
3149	Footwear, Except Rubber, N.E.C.	500
3151	Leather Gloves and Mittens	500
3161	Luggage	500
3171	Women's Handbags and Purses	500
3172	Personal Leather Goods, Except Women's Handbags and Purses	500
3199	Leather Goods, N.E.C.	500

Major Group 32—Stone, Clay, Glass, and Concrete Products

3211	Flat Glass	1,000
3221	Glass Containers	750
3229	Pressed and Blown Glass and Glassware, N.E.C.	750
3231	Glass Products, Made of Purchased Glass	500
3241	Cement, Hydraulic	750
3251	Brick and Structural Clay Tile	500
3253	Ceramic Wall and Floor Tile	500
3255	Clay Refractories	500
3259	Structural Clay Products, N.E.C.	500
3261	Vitreous China Plumbing Fixtures and China and Earthenware Fittings and Bathroom Accessories.	750
3262	Vitreous China Table and Kitchen Articles	500
3263	Fine Earthenware (Whiteware) Table and Kitchen Articles	500
3264	Porcelain Electrical Supplies	500
3269	Pottery Products, N.E.C.	500
3271	Concrete Block and Brick	500
3272	Concrete Products, Except Block and Brick	500
3273	Ready Mixed Concrete	500
3274	Lime	500
3275	Gypsum Products	1,000
3281	Cut Stone and Stone Products	500
3291	Abrasive Products	500
3292	Asbestos Products	750
3295	Minerals and Earths, Ground or Otherwise Treated	500
3296	Mineral Wool	750
3297	Nonclay Refractories	750
3299	Nonmetallic Mineral Products, N.E.C.	500

Major Group 32—Primary Metal Industries

3312	Steel Works, Blast Furnaces (Including Coke Ovens), and Rolling Mills	1,000
3313	Electrometallurgical Products, Except Steel	750
3315	Steel Wiredrawing and Steel Nails and Spikes	1,000
3316	Cold-Rolled Steel Sheet, Strip, and Bars	1,000
3317	Steel Pipe and Tubes	1,000
3321	Gray and Ductile Iron Foundries	500
3322	Malleable Iron Foundries	500
3324	Steel Investment Foundries	500
3325	Steel Foundries, N.E.C.	500
3331	Primary Smelting and Refining of Copper	1,000
3334	Primary Production of Aluminum	1,000
3339	Primary Smelting and Refining of Nonferrous Metals, Except Copper and Aluminum	750
3341	Secondary Smelting and Refining of Nonferrous Metals	500
3351	Rolling, Drawing, and Extruding of Copper	750
3353	Aluminum Sheet, Plate, and Foil	750
3354	Aluminum Extruded Products	750

SIZE STANDARDS BY SIC INDUSTRY 3/96—Continued

SIC	Description (N.E.C. = Not elsewhere classified)	Size standards in number of employees or millions of dollars
3355	Aluminum Rolling and Drawing, N.E.C.	750
3356	Rolling, Drawing, and Extruding of Nonferrous Metals, Except Copper and Aluminum	750
3357	Drawing and Insulating of Nonferrous Wire	1,000
3363	Aluminum Die-Castings	500
3364	Nonferrous Die-Castings, Except Aluminum	500
3365	Aluminum Foundries	500
3366	Copper Foundries	500
3369	Nonferrous Foundries, Except Aluminum and Copper	500
3398	Metal Heat Treating	750
3399	Primary Metal Products, N.E.C.	750

Major Group 34—Fabricated Metal Products, Except Machinery and Transportation Equipment

3411	Metal Cans	1,000
3412	Metal Shipping Barrels, Drums, Kegs, and Pails	500
3421	Cutlery	500
3423	Hand and Edge Tools, Except Machine Tools and Handsaws	500
3425	Saw Blades and Handsaws	500
3429	Hardware, N.E.C.	500
3431	Enameled Iron and Metal Sanitary Ware	750
3432	Plumbing Fixture Fittings and Trim	500
3433	Heating Equipment, Except Electric and Warm Air Furnaces	500
3441	Fabricated Structural Metal	500
3442	Metal Doors, Sash, Frames, Molding, and Trim	500
3443	Fabricated Plate Work (Boiler Shops)	500
3444	Sheet Metal Work	500
3446	Architectural and Ornamental Metal Work	500
3448	Prefabricated Metal Buildings and Components	500
3449	Miscellaneous Structural Metal Work	500
3451	Screw Machine Products	500
3452	Bolts, Nuts, Screws, Rivets, and Washers	500
3462	Iron and Steel Forgings	500
3463	Nonferrous Forgings	500
3465	Automotive Stampings	500
3466	Crowns and Closures	500
3469	Metal Stampings, N.E.C.	500
3471	Electroplating, Plating, Polishing, Anodizing, and Coloring	500
3479	Coating, Engraving, and Allied Services, N.E.C.	500
3482	Small Arms Ammunition	1,000
3483	Ammunition, Except for Small Arms	1,500
3484	Small Arms	1,000
3489	Ordnance and Accessories, N.E.C.	500
3491	Industrial Valves	500
3492	Fluid Power Valves and Hose Fittings	500
3493	Steel Springs, Except Wire	500
3494	Valves and Pipe Fittings, N.E.C.	500
3495	Wire Springs	500
3496	Miscellaneous Fabricated Wire Products	500
3497	Metal Foil and Leaf	500
3498	Fabricated Pipe and Pipe Fittings	500
3499	Fabricated Metal Products, N.E.C.	500

Major Group 35—Industrial and Commercial Machinery and Computer Equipment

3511	Steam, Gas, and Hydraulic Turbines, and Turbine Generator Set Units	1,000
3519	Internal Combustion Engines, N.E.C.	1,000
3523	Farm Machinery and Equipment	500
3524	Lawn and Garden Tractors and Home Lawn and Garden Equipment	500
3531	Construction Machinery and Equipment	750
3532	Mining Machinery and Equipment, Except Oil and Gas Field Machinery and Equipment	500
3533	Oil and Gas Field Machinery and Equipment	500
3534	Elevators and Moving Stairways	500
3535	Conveyors and Conveying Equipment	500
3536	Overhead Traveling Cranes, Hoists, and Monorail Systems	500
3537	Industrial Trucks, Tractors, Trailers, and Stackers	750
3541	Machine Tools, Metal Cutting Types	500
3542	Machine Tools, Metal Forming Types	500
3543	Industrial Patterns	500
3544	Special Dies and Tools, Die Sets, Jigs and Fixtures, and Industrial Molds	500

SIZE STANDARDS BY SIC INDUSTRY 3/96—Continued

SIC	Description (N.E.C. = Not elsewhere classified)	Size standards in number of employees or millions of dollars
3545	Cutting Tools, Machine Tool Accessories, and Machinists' Precision Measuring Devices	500
3546	Power-Driven Handtools	500
3547	Rolling Mill Machinery and Equipment	500
3548	Electric and Gas Welding and Soldering Equipment	500
3549	Metalworking Machinery, N.E.C.	500
3552	Textile Machinery	500
3553	Woodworking Machinery	500
3554	Paper Industries Machinery	500
3555	Printing Trades Machinery and Equipment	500
3556	Food Products Machinery	500
3559	Special Industry Machinery, N.E.C.	500
3561	Pumps and Pumping Equipment	500
3562	Ball and Roller Bearings	750
3563	Air and Gas Compressors	500
3564	Industrial and Commercial Fans and Blowers and Air Purification Equipment	500
3565	Packaging Machinery	500
3566	Speed Changers, Industrial High-Speed Drives, and Gears	500
3567	Industrial Process Furnaces and Ovens	500
3568	Mechanical Power Transmission Equipment, N.E.C.	500
3569	General Industrial Machinery and Equipment, N.E.C.	500
3571	Electronic Computers	1,000
3572	Computer Storage Devices	1,000
3575	Computer Terminals	1,000
3577	Computer Peripheral Equipment, N.E.C.	1,000
3578	Calculating and Accounting Machines, Except Electronic Computers	1,000
3579	Office Machines, N.E.C.	500
3581	Automatic Vending Machines	500
3582	Commercial Laundry, Drycleaning, and Pressing Machines	500
3585	Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment	750
3586	Measuring and Dispensing Pumps	500
3589	Service Industry Machinery, N.E.C.	500
3592	Carburetors, Pistons, Piston Rings, and Valves	500
3593	Fluid Power Cylinders and Actuators	500
3594	Fluid Power Pumps and Motors	500
3596	Scales and Balances, Except Laboratory	500
3599	Industrial and Commercial Machinery and Equipment, N.E.C.	500

Major Group 36—Electronic and Other Electrical Equipment and Components, Except Computer Equipment

3612	Power, Distribution, and Specialty Transformers	750
3613	Switchgear and Switchboard Apparatus	750
3621	Motors and Generators	1,000
3624	Carbon and Graphite Products	750
3625	Relays and Industrial Controls	750
3629	Electrical Industrial Apparatus, N.E.C.	500
3631	Household Cooking Equipment	750
3632	Household Refrigerators and Home and Farm Freezers	1,000
3633	Household Laundry Equipment	1,000
3634	Electric Housewares and Fans	750
3635	Household Vacuum Cleaners	750
3639	Household Appliances, N.E.C.	500
3641	Electric Lamp Bulbs and Tubes	1,000
3643	Current-Carrying Wiring Devices	500
3644	Noncurrent-Carrying Wiring Devices	500
3645	Residential Electric Lighting Fixtures	500
3646	Commercial, Industrial, and Institutional Electric Lighting Fixtures	500
3647	Vehicular Lighting Equipment	500
3648	Lighting Equipment, N.E.C.	500
3651	Household Audio and Video Equipment	750
3652	Phonograph Records and Prerecorded Audio Tapes and Disks	750
3661	Telephone and Telegraph Apparatus	1,000
3663	Radio and Television Broadcasting and Communications Equipment	750
3669	Communications Equipment, N.E.C.	750
3671	Electron Tubes	750
3672	Printed Circuit Boards	500
3674	Semiconductors and Related Devices	500
3675	Electronic Capacitors	500
3676	Electronic Resistors	500
3677	Electronic Coils, Transformers, and Other Inductors	500

SIZE STANDARDS BY SIC INDUSTRY 3/96—Continued

SIC	Description (N.E.C. = Not elsewhere classified)	Size standards in number of employees or millions of dollars
3678	Electronic Connectors	500
3679	Electronic Components, N.E.C.	500
3691	Storage Batteries	500
3692	Primary Batteries, Dry and Wet	1,000
3694	Electrical Equipment for Internal Combustion Engines	750
3695	Magnetic and Optical Recording Media	1,000
3699	Electrical Machinery, Equipment, and Supplies, N.E.C.	750

Major Group 37—Transportation Equipment

3711	Motor Vehicles and Passenger Car Bodies	1,000
3713	Truck and Bus Bodies	500
3714	Motor Vehicle Parts and Accessories	750
3715	Truck Trailers	500
3716	Motor Homes	1,000
3721	Aircraft	1,500
3724	Aircraft Engines and Engine Parts	1,000
3728	Aircraft Parts and Auxiliary Equipment, N.E.C.	1,000 ⁹
3731	Shipbuilding and Repair of Nuclear Propelled Ships	1,000
Except	Shipbuilding of Nonnuclear Propelled Ships and Nonpropelled Ships	1,000
	Ship Repair (Including Overhauls and Conversions) Performed on Nonnuclear Propelled and Nonpropelled Ships East of the 108 Meridian.	1,000
	Ship Repair (Including Overhauls and Conversions) Performed on Nonnuclear Propelled and Nonpropelled Ships West of the 108 Meridian.	1,000
3732	Boat Building and Repairing	500
3743	Railroad Equipment	1,000
3751	Motorcycles, Bicycles, and Parts	500
3761	Guided Missiles and Space Vehicles	1,000
3764	Guided Missile and Space Vehicle Propulsion Units and Propulsion Unit Parts	1,000
3769	Guided Missile and Space Vehicle Parts and Auxiliary Equipment, N.E.C.	1,000
3792	Travel Trailers and Campers	500
3795	Tanks and Tank Components	1,000
3799	Transportation Equipment, N.E.C. .	500

Major Group 38—Measuring, Analyzing, and Controlling Instruments; Photographic, Medical, and Optical Goods; Watches and Clocks

3812	Search, Detection, Navigation, Guidance, Aeronautical, and Nautical Systems and In- struments.	750
3821	Laboratory Apparatus and Furniture	500
3822	Automatic Controls for Regulating Residential and Commercial Environments and Appli- ances.	500
3823	Industrial Instruments for Measurement, Display, and Control of Process Variables; and Related Products.	500
3824	Totalizing Fluid Meters and Counting Devices	500
3825	Instruments for Measuring and Testing of Electricity and Electrical Signals	500
3826	Laboratory Analytical Instruments	500
3827	Optical Instruments and Lenses	500
3829	Measuring and Controlling Devices, N.E.C.	500
3841	Surgical and Medical Instruments and Apparatus	500
3842	Orthopedic, Prosthetic, and Surgical Appliances and Supplies	500
3843	Dental Equipment and Supplies	500
3844	X-Ray Apparatus and Tubes and Related Irradiation Apparatus	500
3845	Electromedical and Electrotherapeutic Apparatus	500
3851	Ophthalmic Goods	500
3861	Photographic Equipment and Supplies	500
3873	Watches, Clocks, Clockwork Operated Devices, and Parts	500

Major Group 39—Miscellaneous Manufacturing Industries

3911	Jewelry, Precious Metal	500
3914	Silverware, Plated Ware, and Stainless Steel Ware	500
3915	Jewelers' Findings and Materials, and Lapidary Work	500
3931	Musical Instruments	500
3942	Dolls and Stuffed Toys	500
3944	Games, Toys, and Children's Vehicles, Except Dolls and Bicycles	500
3949	Sporting and Athletic Goods, N.E.C.	500
3951	Pens, Mechanical Pencils, and Parts	500
3952	Lead Pencils, Crayons, and Artists' Materials	500
3953	Marking Devices	500

SIZE STANDARDS BY SIC INDUSTRY 3/96—Continued

SIC	Description (N.E.C. = Not elsewhere classified)	Size standards in number of employees or millions of dollars
3955	Carbon Paper and Inked Ribbons	500
3961	Costume Jewelry and Costume Novelties, Except Precious Metal	500
3965	Fasteners, Buttons, Needles, and Pins	500
3991	Brooms and Brushes	500
3993	Signs and Advertising Specialties	500
3995	Burial Caskets	500
3996	Linoleum, Asphalted-Felt-Base, and Other Hard Surface Floor Coverings, N.E.C.	750
3999	Manufacturing Industries, N.E.C.	500

Division E—Transportation, Communications Electric, Gas, and Sanitary Services

Major Group 40—Railroad Transportation

4011	Railroads, Line-Haul Operating	1,500
4013	Railroad Switching and Terminal Establishments	500

Major Group 41—Local and Suburban Transit and Interurban Highway Passenger Transportation

4111	Local and Suburban Transit	\$5.0
4119	Local Passenger Transportation, N.E.C.	\$5.0
4121	Taxicabs	\$5.0
4131	Intercity and Rural Bus Transportation	\$5.0
4141	Local Bus Charter Service	\$5.0
4142	Bus Charter Service, Except Local	\$5.0
4151	School Buses	\$5.0
4173	Terminal and Service Facilities for Motor Vehicle Passenger Transportation	\$5.0

Major Group 42—Motor Freight Transportation and Warehousing

4212	Local Trucking Without Storage	\$18.5
Except	Garbage and Refuse Collection, Without Disposal	\$6.0
4213	Trucking, Except Local	\$18.5
4214	Local Trucking With Storage	\$18.5
4215	Courier Services, Except by Air	\$18.5
4221	Farm Product Warehousing and Storage	\$18.5
4222	Refrigerated Warehousing and Storage	\$18.5
4225	General Warehousing and Storage	\$18.5
4226	Special Warehousing and Storage, N.E.C.	\$18.5
4231	Terminal and Joint Terminal Maintenance Facilities for Motor Freight Transportation	\$5.0

Major Group 44—Water Transportation

4412	Deep Sea Foreign Transportation of Freight	500
4424	Deep Sea Domestic Transportation of Freight	500
4432	Freight Transportation on the Great Lakes—St. Lawrence Seaway	500
4449	Water Transportation of Freight, N.E.C.	500
4481	Deep Sea Transportation of Passengers, Except by Ferry	500
4482	Ferries	500
4489	Water Transportation of Passengers, N.E.C.	500
4491	Marine Cargo Handling	\$18.5
4492	Towing and Tugboat Services	\$5.0
4493	Marinas	\$5.0
4499	Water Transportation Services, N.E.C.	\$5.0
Except	Offshore Marine Water Transportation Services	\$20.5

Major Group 45—Transportation by Air

4512	Air Transportation, Scheduled	1,500
4513	Air Courier Services	1,500
4522	Air Transportation, Nonscheduled,	1,500
Except	Offshore Marine Air Transportation Services	\$20.5
4581	Airports, Flying Fields, and Airport Terminal Services	\$5.0

Major Group 46—Pipelines, Except Natural Gas

4612	Crude Petroleum Pipelines	1,500
4613	Refined Petroleum Pipelines	1,500

SIZE STANDARDS BY SIC INDUSTRY 3/96—Continued

SIC	Description (N.E.C. = Not elsewhere classified)	Size standards in number of employees or millions of dollars
4619	Pipelines, N.E.C.	\$25.0

Major Group 47—Transportation Services

4724	Travel Agencies	\$1.0 ⁶
4725	Tour Operators	\$5.0
4729	Arrangement of Passenger Transportation, N.E.C.	\$5.0
4731	Arrangement of Transportation of Freight and Cargo	\$18.5
4741	Rental of Railroad Cars	\$5.0
4783	Packing and Crating	\$18.5
4785	Fixed Facilities and Inspection and Weighing Services for Motor Vehicle Transportation	\$5.0
4789	Transportation Services, N.E.C.	\$5.0

Major Group 48—Communications

4812	Radiotelephone Communications	1,500
4813	Telephone Communications, Except Radiotelephone	1,500
4822	Telegraph and Other Message Communications	\$5.0
4832	Radio Broadcasting Stations	\$5.0
4833	Television Broadcasting Stations	\$10.5
4841	Cable and Other Pay Television Services	\$11.0
4899	Communications Services, N.E.C.	\$11.0

Major Group 49—Electric, Gas, and Sanitary Services

4911	Electric Services	4 million megawatt hrs.
4922	Natural Gas Transmission	\$5.0
4923	Gas Transmission and Distribution	\$5.0
4924	Natural Gas Distribution	500
4925	Mixed, Manufactured, or Liquefied Petroleum	\$5.0
.....	Gas Production and/or Distribution	
4931	Electric and Other Services Combined	\$5.0
4932	Gas and Other Services Combined	\$5.0
4939	Combination Utilities, N.E.C.	\$5.0
4941	Water Supply	\$5.0
4952	Sewerage Systems	\$5.0
4953	Refuse Systems	\$6.0
4959	Sanitary Services, N.E.C.	\$5.0
4961	Steam and Air-Conditioning Supply	\$9.0
4971	Irrigation Systems	\$5.0

Division F—Wholesale Trade

(Not Applicable to Government procurement of supplies. The nonmanufacturer size standard of 500 employees shall be used for purposes of Government procurement of supplies.)

Major Group 50—Wholesale Trade—Durable Goods

5012	Automobiles and Other Motor Vehicles	100
5013	Motor Vehicle Supplies and New Parts	100
5014	Tires and Tubes	100
5015	Motor Vehicle Parts, Used	100
5021	Furniture	100
5023	Homefurnishings	100
5031	Lumber, Plywood, Millwork, and Wood Panels	100
5032	*Brick, Stone, and Related Construction Materials	100
5033	Roofing, Siding, and Insulation Materials	100
5039	Construction Materials, N.E.C.	100
5043	Photographic Equipment and Supplies	100
5044	Office Equipment	100
5045	Computers and Computer Peripheral Equipment and Software	100
5046	Commercial Equipment, N.E.C.	100
5047	Medical, Dental, and Hospital Equipment and Supplies	100
5048	Ophthalmic Goods	100
5049	Professional Equipment and Supplies, N.E.C.	100
5051	Metals Service Centers and Offices	100
5052	Coal and Other Minerals and Ores	100

SIZE STANDARDS BY SIC INDUSTRY 3/96—Continued

SIC	Description (N.E.C. = Not elsewhere classified)	Size standards in number of employees or millions of dollars
5063	Electrical Apparatus and Equipment, Wiring Supplies, and Construction Materials	100
5064	*Electrical Appliances, Television and Radio Sets	100
5065	Electronic Parts and Equipment, N.E.C.	100
5072	Hardware	100
5074	Plumbing and Heating Equipment and Supplies (Hydronics)	100
5075	Warm Air Heating and Air-Conditioning Equipment and Supplies	100
5078	Refrigeration Equipment and Supplies	100
5082	Construction and Mining (Except Petroleum) Machinery and Equipment	100
5083	Farm and Garden Machinery and Equipment	100
5084	Industrial Machinery and Equipment	100
5085	Industrial Supplies	100
5087	Service Establishment Equipment and Supplies	100
5088	Transportation Equipment and Supplies, Except Motor Vehicles	100
5091	Sporting and Recreational Goods and Supplies	100
5092	Toys and Hobby Goods and Supplies	100
5093	Scrap and Waste Materials	100
5094	Jewelry, Watches, Precious Stones, and Precious Metals	100
5099	Durable Goods, N.E.C.	100

Major Group 51—Wholesale Trade—Nondurable Goods

5111	Printing and Writing Paper	100
5112	Stationery and Office Supplies	100
5113	Industrial and Personal Service Paper	100
5122	Drugs, Drug Proprietaries, and Druggists' Sundries	100
5131	Piece Goods, Notions, and Other Dry Goods	100
5136	Men's and Boys' Clothing and Furnishings	100
5137	Women's, Children's, and Infants' Clothing and Accessories	100
5139	Footwear	100
5141	Groceries, General Line	100
5142	Packaged Frozen Foods	100
5143	Dairy Products, Except Dried or Canned	100
5144	Poultry and Poultry Products	100
5145	Confectionery	100
5146	Fish and Seafood	100
5147	Meats and Meat Products	100
5148	Fresh Fruits and Vegetables	100
5149	Groceries and Related Products, N.E.C.	100
5153	Grain and Field Beans	100
5154	Livestock	100
5159	Farm-Product Raw Materials, N.E.C.	100
5162	Plastics Materials and Basic Forms and Shapes	100
5169	Chemical and Allied Products, N.E.C.	100
5171	Petroleum Bulk Stations and Terminals	100
5172	Petroleum and Petroleum Products Wholesalers, Except Bulk Stations and Terminals	100
5181	Beer and Ale	100
5182	Wine and Distilled Alcoholic Beverages	100
5191	Farm Supplies	100
5192	Books, Periodicals, and Newspapers	100
5193	Flowers, Nursery Stock, and Florists' Supplies	100
5194	Tobacco and Tobacco Products	100
5198	Paints, Varnishes, and Supplies	100
5199	Nondurable Goods, N.E.C.	100

Division G—Retail Trade

(Not Applicable to Government procurement of supplies.)

The nonmanufacturer size standard of 500 employees shall be used for purposes of Government procurement of supplies.)

Major Group 52—Building Materials, Hardware, Garden Supply, and Mobile Home Dealers

5211	Lumber and Other Building Materials Dealers	\$5.0
5231	Paint, Glass, and Wallpaper Stores	\$5.0
5251	Hardware Stores	\$5.0
5261	Retail Nurseries, Lawn and Garden Supply Stores	\$5.0
5271	Mobile Home Dealers	\$9.5

Major Group 53—General Merchandise Stores

5311	Department Stores	\$20.0
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SIZE STANDARDS BY SIC INDUSTRY 3/96—Continued

SIC	Description (N.E.C. = Not elsewhere classified)	Size standards in number of employees or millions of dollars
5331	Variety Stores	\$8.0
5399	Miscellaneous General Merchandise Stores	\$5.0
Major Group 54—Food Stores		
5411	Grocery Stores	\$20.0
5421	Meat and Fish (Seafood) Markets, Including Freezer Provisioners	\$5.0
5431	Fruit and Vegetable Markets	\$5.0
5441	Candy, Nut, and Confectionery Stores	\$5.0
5451	Dairy Products Stores	\$5.0
5461	Retail Bakeries	\$5.0
5499	Miscellaneous Food Stores	\$5.0
Major Group 55—Automotive Dealers and Gasoline Service Stations		
5511	Motor Vehicle Dealers (New and Used)	\$21.0
5521	Motor Vehicle Dealers (Used Only)	\$17.0
5531	Auto and Home Supply Stores	\$5.0
5541	Gasoline Service Stations	\$6.5
5551	Boat Dealers	\$5.0
5561	Recreational Vehicle Dealers	\$5.0
5571	Motorcycle Dealers	\$5.0
5599	Automotive Dealers, N.E.C.	\$5.0
Except	Aircraft Dealers, Retail	\$7.5
Major Group 56—Apparel and Accessory Stores		
5611	Men's and Boys' Clothing and Accessory Stores	\$6.5
5621	Women's Clothing Stores	\$6.5
5632	Women's Accessory and Specialty Stores	\$5.0
5641	Children's and Infants' Wear Stores	\$5.0
5651	Family Clothing Stores	\$6.5
5661	Shoe Stores	\$6.5
5699	Miscellaneous Apparel and Accessory Stores	\$5.0
Major Group 57—Home Furniture, Furnishings, and Equipment Stores		
5712	Furniture Stores	\$5.0
5713	Floor Covering Stores	\$5.0
5714	Drapery, Curtain, and Upholstery Stores	\$5.0
5719	Miscellaneous Homefurnishings Stores	\$5.0
5722	Household Appliance Stores	\$6.5
5731	Radio, Television, and Consumer Electronics Stores	\$6.5
5734	Computer and Computer Software Stores	\$6.5
5735	Record and Prerecorded Tape Stores	\$5.0
5736	Musical Instrument Stores	\$5.0
Major Group 58—Eating and Drinking Places		
5812	Eating Places	\$5.0
Except	Food Service, Institutional	\$15.0
5813	Drinking Places (Alcoholic Beverages)	\$5.0
Major Group 59—Miscellaneous Retail		
5812	Drug Stores and Proprietary Stores	\$5.0
5821	Liquor Stores	\$5.0
5832	Used Merchandise Stores	\$5.0
5841	Sporting Goods Stores and Bicycle Shops	\$5.0
5842	Book Stores	\$5.0
5843	Stationery Stores	\$5.0
5844	Jewelry Stores	\$5.0
5845	Hobby, Toy, and Game Shops	\$5.0
5846	Camera and Photographic Supply Stores	\$5.0
5847	Gift, Novelty, and Souvenir Shops	\$5.0
5848	Luggage and Leather Goods Stores	\$5.0
5849	Sewing, Needlework, and Piece Goods Stores	\$5.0

SIZE STANDARDS BY SIC INDUSTRY 3/96—Continued

SIC	Description (N.E.C. = Not elsewhere classified)	Size standards in number of employees or millions of dollars
5861	Catalog and Mail-Order Houses	\$18.5
5862	Automatic Merchandising Machine Operators	\$5.0
5863	Direct Selling Establishments	\$5.0
5883	Fuel Oil Dealers	\$9.0
5884	Liquefied Petroleum Gas (Bottled Gas) Dealers.. ..	\$5.0
5889	Fuel Dealers, N.E.C.	\$5.0
5892	Florists	\$5.0
5893	Tobacco Stores and Stands	\$5.0
5894	News Dealers and Newsstands	\$5.0
5895	Optical Goods Stores	\$5.0
5899	Miscellaneous Retail Stores, N.E.C.	\$5.0

Division H—Finance, Insurance, and Real Estate

Major Group 60—Depository Institutions

6021	National Commercial Banks	\$100 Million in As- sets ⁷
6022	State Commercial Banks	\$100 Million in As- sets ⁷
6029	Commercial Banks, N.E.C.	\$100 Million in As- sets ⁷
6035	Savings Institutions, Federally Chartered	\$100 Million in As- sets ⁷
6036	Savings Institutions, Not Federally Chartered	\$100 Million in As- sets ⁷
6061	Credit Unions, Federally Chartered	\$100 Million in As- sets ⁷
6062	Credit Unions, Not Federally Chartered	\$100 Million in As- sets ⁷
6081	Branches and Agencies of Foreign Banks	\$100 Million in As- sets ⁷
6082	Foreign Trade and International Banks	\$100 Million in As- sets ⁷
6091	Nondeposit Trust Facilities	\$5.0
6099	Functions Related to Depositor Banking, N.E.C.	\$5.0

Major Group 61—Nondepository Institution

6141	Personal Credit Institutions	\$5.0
6153	Short-Term Business Credit Institutions, Except Agriculture	\$5.0 *
6158	Miscellaneous Business Credit Institutions	\$5.0
6162	Mortgage Bankers and Loan Correspondents	\$5.0
6163	Loan Brokers	\$5.0

Major Group 62—Security and Commodity Brokers, Dealers, Exchanges and Services

6211	Security Brokers, Dealers and Flotation Companies	\$5.0
6221	Commodity Contracts Brokers and Dealers	\$5.0
6231	Security and Commodity Exchanges	\$5.0
6282	Investment Advice	\$5.0
6289	Services Allied With the Exchange of Securities or Commodities, N.E.C.	\$5.0

Major Group 63—Insurance Carriers

6311	Life Insurance	\$5.0
6321	Accident and Health Insurance	\$5.0
6324	Hospital and Medical Service Plans	\$5.0
6331	Fire, Marine, and Casualty Insurance 1,500.	
6351	Surety Insurance	\$5.0
6361	Title Insurance	\$5.0
6371	Pension, Health and Welfare Funds	\$5.0
6399	Insurance Carriers, N.E.C.	\$5.0

SIZE STANDARDS BY SIC INDUSTRY 3/96—Continued

SIC	Description (N.E.C. = Not elsewhere classified)	Size standards in number of employees or millions of dollars
Major Group 64—Insurance Agents, Brokers, and Service		
6411	Insurance Agents, Brokers, and Service	\$5.0
Major Group 65—Real Estate		
6512	Operators of Nonresidential Buildings	\$5.0
6513	Operators of Apartment Buildings	\$5.0
6514	Operators of Dwellings Other Than Apartment Buildings	\$5.0
6515	Operators of Residential Mobile Home Sites,	\$5.0
Except	Leasing of Building Space to Federal Government by Owners	\$15.0 ⁸
6517	Lessors of Railroad Property	\$5.0
6519	Lessors of Real Property, N.E.C.	\$5.0
6531	Real Estate Agents and Managers	\$1.5 ⁶
6541	Title Abstract Offices	\$5.0
6552	Land Subdividers and Developers, Except Cemeteries	\$5.0
6553	Cemetery Subdividers and Developers	\$5.0
Major Group 67—Holding and Other Investment Offices		
6712	Offices of Bank Holding Companies	\$5.0
6719	Offices of Holding Companies, N.E.C.	\$5.0
6722	Management Investment Offices, Open-End	\$5.0
6726	Unit Investment Trusts, Face-Amount Certificate Offices, and Closed-End Management Investment Offices.	\$5.0
6732	Educational, Religious, and Charitable Trusts	\$5.0
6733	Trusts, Except Educational, Religious, and Charitable	\$5.0
6792	Oil Royalty Traders	\$5.0
6794	Patent Owners and Lessors	\$5.0
6798	Real Estate Investment Trusts	\$5.0
6799	Investors, N.E.C.	\$5.0
Division I—Services		
Major Group 70—Hotels, Rooming Houses, Camps, and Other Lodging Places		
7011	Hotels and Motels	\$5.0
7021	Rooming and Boarding Houses	\$5.0
7032	Sporting and Recreational Camps	\$5.0
7033	Recreational Vehicle Parks and Campsites	\$5.0
7041	Organization Hotels and Lodging Houses, on Membership Basis	\$5.0
Major Group 72—Personal Services		
7211	Power Laundries, Family and Commercial	\$10.5
7212	Garment Pressing, and Agents for Laundries and Drycleaners	\$5.0
7213	Linen Supply	\$10.5
7215	Coin-Operated Laundries and Drycleaning	\$5.0
7216	Drycleaning Plants, Except Rug Cleaning	\$3.5
7217	Carpet and Upholstery Cleaning	\$3.5
7218	Industrial Launderers	\$10.5
7219	Laundry and Garment Services, N.E.C.	\$5.0
7221	Photographic Studios, Portrait	\$5.0
7231	Beauty Shops	\$5.0
7241	Barber Shops	\$5.0
7251	Shoe Repair Shops and Shoeshine Parlors	\$5.0
7261	Funeral Service and Crematories	\$5.0
7291	Tax Return Preparation Services	\$5.0
7299	Miscellaneous Personal Services, N.E.C.	\$5.0
Major Group 73—Business Services		
7311	Advertising Agencies	\$5.0 ⁶
7312	Outdoor Advertising Services	\$5.0 ⁶
7313	Radio, Television, and Publishers' Advertising Representatives	\$5.0 ⁶
7319	Advertising, N.E.C.	\$5.0 ⁶
7322	Adjustment and Collection Services	\$5.0

SIZE STANDARDS BY SIC INDUSTRY 3/96—Continued

SIC	Description (N.E.C. = Not elsewhere classified)	Size standards in number of employees or millions of dollars
7323	Credit Reporting Services	\$5.0
7331	Direct Mail Advertising Services	\$5.0
7334	Photocopying and Duplicating Services	\$5.0
7335	Commercial Photography	\$5.0
7336	Commercial Art and Graphic Design	\$5.0
7338	Secretarial and Court Reporting Services	\$5.0
7342	Disinfecting and Pest Control Services	\$5.0
7349	Building Cleaning and Maintenance Services, N.E.C	\$12.0
7352	Medical Equipment Rental and Leasing	\$5.0
7353	Heavy Construction Equipment Rental and Leasing	\$5.0
7359	Equipment Rental and Leasing, N.E.C	\$5.0
7361	Employment Agencies	\$5.0
7363	Help Supply Services	\$5.0
7371	Computer Programming Services	\$18.0
7372	Prepackaged Software	\$18.0
7373	Computer Integrated Systems Design	\$18.0
7374	Computer Processing and Data Preparation and Processing Services	\$18.0
7375	Information Retrieval Services	\$18.0
7376	Computer Facilities Management Services	\$18.0
7377	Computer Rental and Leasing	\$18.0
7378	Computer Maintenance and Repair	\$18.0
7379	Computer Related Services, N.E.C	\$18.0
7381	Detective, Guard, and Armored Car Services	\$9.0
7382	Security Systems Services	\$9.0
7383	News Syndicates	\$5.0
7384	Photofinishing Laboratories	\$5.0
7389	Business Services, N.E.C	\$5.0
Except	Map Drafting Services, Mapmaking (Including Aerial) and Photogrammetric Mapping Services.	\$3.5
Major Group 75—Automotive Repair, Services, and Parking		
7513	Truck Rental and Leasing, Without Drivers	\$18.5
7514	Passenger Car Rental	\$18.5
7515	Passenger Car Leasing	\$18.5
7519	Utility Trailer and Recreational Vehicle Rental	\$5.0
7521	Automobile Parking	\$5.0
7532	Top, Body, and Upholstery Repair Shops and Paint Shops	\$5.0
7533	Automotive Exhaust System Repair Shops	\$5.0
7534	Tire Retreading and Repair Shops	\$10.5
7536	Automotive Glass Replacement Shops	\$5.0
7537	Automotive Transmission Repair Shops	\$5.0
7538	General Automotive Repair Shops	\$5.0
7539	Automotive Repair Shops, N.E.C.	\$5.0
7542	Carwashes	\$5.0
7549	Automotive Services, Except Repair and Carwashes	\$5.0
Major Group 76—Miscellaneous Repair Services		
7622	Radio and Television Repair Shops	\$5.0
7623	Refrigeration and Air-Conditioning Service and Repair Shops	\$5.0
7629	Electrical and Electronic Repair Shops, N.E.C.	\$5.0
7631	Watch, Clock, and Jewelry Repair	\$5.0
7641	Reupholstery and Furniture Repair	\$5.0
7692	Welding Repair	\$5.0
7694	Armature Rewinding Shops	\$5.0
7699	Repair Shops and Related Services, N.E.C.	\$5.0 ⁹
Major Group 78—Motion Pictures		
7812	Motion Picture and Video Tape Production	\$21.5
7819	Services Allied to Motion Picture Production	\$21.5
7822	Motion Picture and Video Tape Distribution	\$21.5
7829	Services Allied to Motion Picture Distribution	\$5.0
7832	Motion Picture Theaters, Except Drive-In	\$5.0
7833	Drive-In Motion Picture Theaters	\$5.0
7841	Video Tape Rental	\$5.0

SIZE STANDARDS BY SIC INDUSTRY 3/96—Continued

SIC	Description (N.E.C. = Not elsewhere classified)	Size standards in number of employees or millions of dollars
Major Group 79—Amusement and Recreation Services		
7911	Dance Studios, Schools, and Halls	\$5.0
7922	Theatrical Producers (Except Motion Picture) and Miscellaneous Theatrical Services	\$5.0
7929	Bands, Orchestras, Actors, and Other Entertainers and Entertainment Groups	\$5.0
7933	Bowling Centers	\$5.0
7941	Professional Sports Clubs and Promoters	\$5.0
7991	Physical Fitness Facilities	\$5.0
7993	Coin-Operated Amusement Devices	\$5.0
7996	Amusement Parks	\$5.0
7997	Membership Sports and Recreation Clubs	\$5.0
7999	Amusement and Recreation Services, N.E.C.	\$5.0
Major Group 80—Health Services		
8011	Offices and Clinics of Doctors of Medicine	\$5.0
8021	Offices and Clinics of Dentists	\$5.0
8031	Offices and Clinics of Doctors of Osteopathy	\$5.0
8041	Offices and Clinics of Chiropractors	\$5.0
8042	Offices and Clinics of Optometrists	\$5.0
8043	Offices and Clinics of Podiatrists	\$5.0
8049	Offices and Clinics of Health Practitioners, N.E.C.	\$5.0
8051	Skilled Nursing Care Facilities	\$5.0
8052	Intermediate Care Facilities	\$5.0
8059	Nursing and Personal Care Facilities, N.E.C.	\$5.0
8062	General Medical and Surgical Hospitals	\$5.0
8063	Psychiatric Hospitals	\$5.0
8069	Specialty Hospitals, Except Psychiatric	\$5.0
8071	Medical Laboratories	\$5.0
8072	Dental Laboratories	\$5.0
8082	Home Health Care Services	\$5.0
8092	Kidney Dialysis Centers	\$5.0
8093	Specialty Outpatient Facilities, N.E.C.	\$5.0
8099	Health and Allied Services, N.E.C.	\$5.0
Major Group 81—Legal Services		
8111	Legal Services	\$5.0
Major Group 82—Educational Services		
8211	Elementary and Secondary Schools	\$5.0
8221	Colleges, Universities, and Professional Schools	\$5.0
8222	Junior Colleges and Technical Institutes	\$5.0
8231	Libraries	\$5.0
8243	Data Processing Schools	\$5.0
8244	Business and Secretarial Schools	\$5.0
8249	Vocational Schools, N.E.C.	\$5.0
8299	Schools and Educational Services, N.E.C.	\$5.0
8299	Flight Training Services	\$18.5
Major Group 83—Social Services		
8322	Individual and Family Social Services	\$5.0
8331	Job Training and Vocational Rehabilitation Services	\$5.0
8351	Child Day Care Services	\$5.0
8361	Residential Care	\$5.0
8399	Social Services, N.E.C.	\$5.0
Major Group 84—Museums, Art Galleries, and Botanical and Zoological Gardens		
8412	Museums and Art Galleries	\$5.0
8422	Arboreta and Botanical or Zoological Gardens	\$5.0
Major Group 86—Membership Organizations		
8611	Business Associations	\$5.0

SIZE STANDARDS BY SIC INDUSTRY 3/96—Continued

SIC	Description (N.E.C. = Not elsewhere classified)	Size standards in number of employees or millions of dollars
8621	Professional Membership Organizations	\$5.0
8631	Labor Unions and Similar Labor Organizations	\$5.0
8641	Civic, Social, and Fraternal Associations	\$5.0
8651	Political Organizations	\$5.0
8661	Religious Organizations	\$5.0
8699	Membership Organizations, N.E.C.	\$5.0

Major Group 87—Engineering, Accounting, Research, and Related Services

8711	Engineering Services	\$2.5
Except	Military and Aerospace Equipment and Military Weapons	\$20.0
Except	Contracts and Subcontracts for Engineering Services Awarded Under the National Energy Policy Act of 1992.	\$20.0
Except	Marine Engineering and Naval Architecture	\$13.5
8712	Architectural Services	\$2.5
8713	Surveying Services	\$2.5
8721	Accounting, Auditing, and Bookkeeping Services	\$6.0
8731	Commercial Physical and Biological Research	500 ¹⁰
Except	Aircraft	1,500
Except	Aircraft Parts, and Auxiliary Equipment, and Aircraft Engines and Engine Parts	1,000
Except	Space Vehicles and Guided Missiles, their Propulsion Units, their Propulsion Units Parts, and their Auxiliary Equipment and Parts.	1,000
8732	Commercial Economic, Sociological, and Educational Research	\$5.0
8733	Noncommercial Research Organizations	\$5.0
8734	Testing Laboratories	\$5.0
8741	Management Services	\$5.0
Except	Conference Management Services	\$5.06
8742	Management Consulting Services	\$5.0
8743	Public Relations Services	\$5.0
8744	Facilities Support Management Services	\$5.0 ¹¹
Except	Base Maintenance	\$20.0 ¹²
Except	Environmental Remediation Services	500 ¹³
8748	Business Consulting Services, N.E.C.	\$5.0

Major Group 89—Services, not Elsewhere Classified

8999	Services, N.E.C.	\$5.0
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Division K—Nonclassifiable Establishments

9999	Nonclassifiable Establishments..	\$5.0
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¹ SIC code 1629—Dredging: To be considered small for purposes of Government procurement, a firm must perform at least 40 percent of the volume dredged with its own equipment or equipment owned by another small dredging concern.

² SIC Division D—Manufacturing: For rebuilding machinery or equipment on a factory basis, or equivalent, use the SIC code for a newly manufactured product. Concerns performing major rebuilding or overhaul activities do not necessarily have to meet the criteria for being a “manufacturer” although the activities may be classified under a manufacturing SIC code. Ordinary repair services or preservation are not considered rebuilding.

³ SIC code 2033: For purposes of Government procurement for food canning and preserving, the standard of 500 employees excludes agricultural labor as defined in 3306(k) of the Internal Revenue Code, 26 U.S.C. 3306(k).

⁴ SIC code 2911: For purposes of Government procurement, the firm may not have more than 1,500 employees nor more than 75,000 barrels per day capacity of petroleum-based inputs, including crude oil or bona fide feedstocks. Capacity includes owned or leased facilities as well as facilities under a processing agreement or an arrangement such as an exchange agreement or a throughput. The total product to be delivered under the contract must be at least 90 percent refined by the successful bidder from either crude oil or bona fide feedstocks.

⁵ SIC code 3011: For purposes of Government procurement, a firm is small for bidding on a contract for pneumatic tires within Census Classification codes 30111 and 30112, provided that:

(1) The value of tires within Census Classification codes 30111 and 30112 which it manufactured in the United States during the previous calendar year is more than 50 percent of the value of its total worldwide manufacture,

(2) the value of pneumatic tires within Census Classification codes 30111 and 30112 comprising its total worldwide manufacture during the preceding calendar year was less than 5 percent of the value of all such tires manufactured in the United States during that period, and

(3) the value of the principal product which it manufactured or otherwise produced, or sold worldwide during the preceding calendar year is less than 10 percent of the total value of such products manufactured or otherwise produced or sold in the United States during that period.

⁶ SIC codes 4724, 6531, 7311, 7312, 7313, 7319, and 8741 (part): As measured by total revenues, but excluding funds received in trust for an unaffiliated third party, such as bookings or sales subject to commissions. The commissions received are included as revenue.

⁷ A financial institution's assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year.

Assets for the purposes of this size standard means the assets defined according to the Federal Financial Institutions Examination Council 034 call report form.

⁸ SIC code 6515: Leasing of building space to the Federal Government by Owners: For Government procurement, a size standard of \$15.0 million in gross receipts applies to the owners of building space leased to the Federal Government. The standard does not apply to an agent.

⁹ SIC codes 7699 and 3728: Contracts for the rebuilding or overhaul of aircraft ground support equipment on a contract basis are classified under SIC code 3728.

¹⁰ SIC code 8731: For research and development contracts requiring the delivery of a manufactured product, the appropriate size standard is that of the manufacturing industry.

(1) Research and Development means laboratory or other physical research and development. It does not include economic, educational, engineering, operations, systems, or other nonphysical research; or computer programming, data processing, commercial and/or medical laboratory testing.

(2) For purposes of the Small Business Innovation Research (SBIR) program only, a different definition has been established by law. See 121.701 of these regulations.

(3) Research and development for guided missiles and space vehicles includes evaluations and simulation, and other services requiring thorough knowledge of complete missiles and spacecraft.

¹¹ Facilities Management, a component of SIC code 8744, includes establishments, not elsewhere classified, which provide overall management and the personnel to perform a variety of related support services in operating a complete facility in or around a specific building, or within another business or Government establishment. Facilities management means furnishing three or more personnel supply services which may include, but are not limited to, secretarial services, typists, telephone answering, reproduction or mimeograph service, mailing service, financial or business management, public relations, conference planning, travel arrangements, word processing, maintaining files and/or libraries, switchboard operation, writers, bookkeeping, minor office equipment maintenance and repair, or use of information systems (not programming).

¹² SIC code 8744: (1) If one of the activities of base maintenance, as defined below, can be identified with a separate industry and that activity (or industry) accounts for 50 percent or more of the value of an entire contract, then the proper size standard is that of the particular industry, and not the base maintenance size standard.

(2) "Base Maintenance" requires the performance of three or more separate activities in the areas of service or special trade construction industries. If services are performed, these activities must each be in a separate SIC code including, but not limited to, Janitorial and Custodial Service, Fire Prevention Service, Messenger Service, Commissary Service, Protective Guard Service, and Grounds Maintenance and Landscaping Service. If the contract requires the use of special trade contractors (plumbing, painting, plastering, carpentry, etc.), all such special trade construction activities are considered a single activity and classified as Base Housing Maintenance. Since Base Housing Maintenance is only one activity, two additional activities are required for a contract to be classified as "Base Maintenance."

¹³ SIC code 8744: (1) For SBA assistance as a small business concern in the industry of Environmental Remediation Services, other than for Government procurement, a concern must be engaged primarily in furnishing a range of services for the remediation of a contaminated environment to an acceptable condition including, but not limited to, preliminary assessment, site inspection, testing, remedial investigation, feasibility studies, remedial design, containment, remedial action, removal of contaminated materials, storage of contaminated materials and security and site closeouts. If one of such activities accounts for 50 percent or more of a concern's total revenues, employees, or other related factors, the concern's primary industry is that of the particular industry and not the Environmental Remediation Services Industry.

(2) For purposes of classifying a Government procurement as Environmental Remediation Services, the general purpose of the procurement must be to restore a contaminated environment and also the procurement must be composed of activities in three or more separate industries with separate SIC codes or, in some instances (e.g., engineering), smaller sub-components of SIC codes with separate, distinct size standards. These activities may include, but are not limited to, separate activities in industries such as: Heavy Construction; Special Trade Construction; Engineering Services; Architectural Services; Management Services; Refuse Systems; Sanitary Services, Not Elsewhere Classified; Local Trucking Without Storage; Testing Laboratories; and Commercial, Physical and Biological Research. If any activity in the procurement can be identified with a separate SIC code, or component of a code with a separate distinct size standard, and that industry accounts for 50 percent or more of the value of the entire procurement, then the proper size standard is the one for that particular industry, and not the Environmental Remediation Service size standard.

[FR Doc. 96-14523 Filed 6-19-96; 8:45 am]

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48 CFR Parts 19 and 52

[FAC 90-39; FAR Case 92-039; Item IX]

RIN 9000-AG07

Federal Acquisition Regulation; Master Subcontracting Plans

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) to permit master subcontracting plans to be written for a three-year period and to emphasize that it is incumbent upon contractors to maintain and update master plans. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: August 19, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein at (202) 501-3775 in reference to this FAR case. For general

information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-39, FAR case 92-039.

SUPPLEMENTARY INFORMATION:

A. Background

A proposed rule was published in the Federal Register on September 8, 1994 (59 FR 46385). The proposed rule amended FAR 19.704(b) and 52.219-9 to permit master subcontracting plans to be written for a three-year period with contractors making changes/updates to master subcontracting plans as necessary. After evaluating public comments, the Councils have agreed to add language at FAR 19.704(b) stating that changes required to update master subcontracting plans are not effective until approved by the contracting officer.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because small businesses are exempt from

subcontracting plan requirements, and the rule does not change the contractor's obligation to maximize subcontracting opportunities for small business concerns. No comments were received on the impact of this rule on small entities during the public comment period.

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (Public Law 104-13) is deemed to apply because the final rule contains information collection requirements. This final rule will result in an estimated reduction in the number of subcontract plans per year and associated hours. Consequently, a revised clearance for OMB Control Number 9000-0006 was submitted to OMB. The revised clearance has been approved through October 31, 1997. OMB Control Number 9000-0006 has recently been further revised by FAR case 94-780, and approval has been extended through March 31, 1998.

List of Subjects in 48 CFR Parts 19 and 52

Government procurement.

Dated: June 4, 1996.

Edward C. Loeb,
Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 19 and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 19 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 19—SMALL BUSINESS PROGRAMS

2. Section 19.704 is amended in paragraph (b) by revising the second sentence and adding a third and fourth sentence to read as follows:

19.704 Subcontracting plan requirements.

* * * * *

(b) * * * Master plans shall be effective for a 3-year period after approval by the contracting officer; however, it is incumbent upon contractors to maintain and update master plans. Changes required to update master plans are not effective until approved by the contracting officer. A master plan, when incorporated in an individual plan, shall apply to that contract throughout the life of the contract.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 52.219-9 is amended by revising the date of the clause to read "(AUG 1996)"; in paragraph (f) introductory text by removing "(d) above," and inserting "paragraph (d) of this clause," in its place; and revising paragraph (f)(2) of the clause to read as follows:

52.219-9 Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan.

* * * * *

Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (Aug 1996)

* * * * *

(f) * * *
(2) the offeror ensures that the master plan is updated as necessary and provides copies of the approved master plan, including evidence of its approval, to the Contracting Officer, and

* * * * *

[FR Doc. 96-14524 Filed 6-19-96; 8:45 am]

BILLING CODE 6820-EP-P

48 CFR Part 19

[FAC 90-39; FAR Case 92-302; Item X]

RIN 9000-AG10

Federal Acquisition Regulation; Small Business Competitiveness Demonstration Program

AGENCIES: Department of Defense (DOD), General Services Administration (GSA),

and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule adopted as final.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to finalize without change the interim rule which was published at 59 FR 67036, December 28, 1994 (FAC 90-23, Item XIII), amending the Federal Acquisition Regulation (FAR) Part 19 to (1) extend the Small Business Competitiveness Demonstration Program through September 30, 1996; (2) specify that agencies may reinstate the use of small business set-asides as necessary to meet assigned goals, but only within the organizational unit(s) that failed to meet the small business goals; and (3) revise the description of Architectural and Engineering services as a designated industry group. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: June 20, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein at (202) 501-3775 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-39, FAR case 92-302.

SUPPLEMENTARY INFORMATION:

A. Background

This rule finalizes the interim rule, which implements Title II of Public Law 102-366, the Small Business Credit and Business Opportunity Enhancement Act of 1992, which revised Title VII of Public Law 100-656, Small Business Competitiveness Demonstration Program. The Office of Federal Procurement Policy published an interim policy directive in the Federal Register at 58 FR 19849, April 16, 1993, revising the current directive dated August 31, 1989, to include revisions based on Title II.

On December 28, 1994, the interim rule was published in the Federal Register with a request for comment. Two responses were received. No changes were made to the interim rule as a result of the responses. The interim rule has been adopted as a final rule without change.

B. Regulatory Flexibility Act

The final rule implements statutory revisions included in the revisions to the OFPP policy directive. OFPP prepared the appropriate regulatory

flexibility statements as part of the revisions to the OFPP policy directive published in the Federal Register.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 19

Government procurement.

Interim Rule Adopted as Final Without Change

Accordingly, the interim rule amending 48 CFR Part 19, which was published at 59 FR 67036, December 28, 1994 (FAC 90-23, Item XIII), is adopted as a final rule without change.

The authority citation for 48 CFR Part 19 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

Dated: June 4, 1996.

Edward C. Loeb,
Director, Federal Acquisition Policy Division.
[FR Doc. 96-14525 Filed 6-19-96; 8:45 am]

BILLING CODE 6820-EP-P

48 CFR Parts 22 and 52

[FAC 90-39; FAR Case 93-615; Item XI]

RIN 9000-AG02

Federal Acquisition Regulation; Use of Convict Labor

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) to reflect changes in the statutory restrictions on employment of convict labor in the performance of Government contracts. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: August 19, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Jack O'Neill at (202) 501-3856 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building,

Washington, DC 20405 (202) 501-4755. Please cite FAC 90-39, FAR case 93-615.

SUPPLEMENTARY INFORMATION:

A. Background

A proposed rule was published in the Federal Register on September 6, 1994 (59 FR 46020). The proposed rule amended FAR Subpart 22.2 and the clause at 52.222-3 to (1) remove all references to 18 U.S.C. 4082(c)(2), which now only applies to offenses committed prior to November 1, 1987; (2) reflect the addition of the Commonwealth of the Northern Mariana Islands to the jurisdictions covered by Executive Order 11755; and (3) include further information regarding the requirements of Executive Order 11755, as amended by Executive Order 12608.

No substantive comments were received on the proposed rule during the public comment period. The Councils, therefore, agreed to adopt the proposed rule as a final rule without change.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because it merely updates FAR language pertaining to the employment of convict labor to conform to current statutory requirements. No comments were received on the impact of this rule on small entities during the public comment period.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 22 and 52

Government procurement.

Dated: June 4, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 22 and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 22 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

2. Section 22.201 is revised to read as follows:

§ 22.201 General.

(a) Executive Order 11755, December 29, 1973, as amended by Executive Order 12608, September 9, 1987, and Executive Order 12943, December 13, 1994, states: "The development of the occupational and educational skills of prison inmates is essential to their rehabilitation and to their ability to make an effective return to free society. Meaningful employment serves to develop those skills. It is also true, however, that care must be exercised to avoid either the exploitation of convict labor or any unfair competition between convict labor and free labor in the production of goods and services." The Executive order does not prohibit the contractor, in performing the contract, from employing—

- (1) Persons on parole or probation;
- (2) Persons who have been pardoned or who have served their terms;
- (3) Federal prisoners; or
- (4) Nonfederal prisoners authorized to work at paid employment in the community under the laws of a jurisdiction listed in the Executive order if—

- (i) The worker is paid or is in an approved work training program on a voluntary basis;
- (ii) Representatives of local union central bodies or similar labor union organizations have been consulted;
- (iii) Paid employment will not—
 - (A) Result in the displacement of employed workers;
 - (B) Be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality; or
 - (C) Impair existing contracts for services;
- (iv) The rates of pay and other conditions of employment will not be less than those for work of a similar nature in the locality where the work is being performed; and
- (v) The Attorney General of the United States has certified that the work-release laws or regulations of the jurisdiction involved are in conformity with the requirements of Executive Order 11755, as amended.

(b) Department of Justice regulations authorize the Director of the Bureau of Justice Assistance to exercise the power and authority vested in the Attorney General by the Executive order to certify and to revoke the certification of work-

release laws or regulations (see 28 CFR 0.94-1(b)).

22.202 [Amended]

3. Section 22.202 is amended in the introductory paragraph by inserting after "Samoa," "the Commonwealth of the Northern Mariana Islands,".

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Section 52.222-3 is revised to read as follows:

52.222-3 Convict labor.

As prescribed in 22.202, insert the following clause:

Convict Labor (Aug 1996)

The Contractor agrees not to employ in the performance of this contract any person undergoing a sentence of imprisonment which has been imposed by any court of a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands. This limitation, however, shall not prohibit the employment by the Contractor in the performance of this contract of persons on parole or probation to work at paid employment during the term of their sentence or persons who have been pardoned or who have served their terms. Nor shall it prohibit the employment by the Contractor in the performance of this contract of persons confined for violation of the laws of any of the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands who are authorized to work at paid employment in the community under the laws of such jurisdiction, if—

- (a)(1) The worker is paid or is in an approved work training program on a voluntary basis;
- (2) Representatives of local union central bodies or similar labor union organizations have been consulted;
- (3) Such paid employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts for services; and
- (4) The rates of pay and other conditions of employment will not be less than those paid or provided for work of a similar nature in the locality in which the work is being performed; and

(b) The Attorney General of the United States has certified that the work-release laws or regulations of the jurisdiction involved are in conformity with the requirements of Executive Order 11755, as amended by Executive Orders 12608 and 12943.

(End of clause)

[FR Doc. 96-14526 Filed 6-19-96; 8:45 am]

BILLING CODE 6820-EP-P

48 CFR Parts 23 and 52

[FAC 90-39; FAR Case 93-307; Item XII]

RIN 9000-AG42

Federal Acquisition Regulation; Ozone Executive Order

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule adopted as final with changes.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to convert the interim rule published at 60 FR 28500, May 31, 1995, to a final rule with changes to amend the Federal Acquisition Regulation (FAR) to provide policy for the acquisition of items that contain or are manufactured with ozone-depleting substances. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: June 20, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph De Stefano at (202) 501-1758 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-39, FAR case 93-307.

SUPPLEMENTARY INFORMATION:**A. Background**

The Environmental Protection Agency (EPA) promulgated 40 CFR Part 82, Subpart D, to satisfy EPA's obligation under Section 613, Title VI of the Clean Air Act Amendments of 1990. The EPA rule requires each department, agency, and instrumentality of the United States to conform its procurement regulations to the policies and requirements of Title VI of the Clean Air Act and to maximize the substitution of safe alternatives for ozone-depleting substances as identified under Section 612 of the Act. The EPA rule complements Executive Order 12843, Procurement Requirements and Policies for Federal Agencies for Ozone-Depleting Substances (58 FR 21881, April 23, 1993). Both the Executive Order and the EPA rule require that new contracts provide that any acquired products which contain or are manufactured with ozone-depleting substances be labeled in the manner and to the extent required by 42 U.S.C. 7671j (b), (c), and (d) and 40 CFR Part 82, Subpart E. On May 31, 1995 (60 FR

28500), the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council published an interim rule to implement the EPA regulations and the Executive Order.

This final FAR rule contains revisions resulting from public comments received in response to the interim rule. Several respondents questioned whether the interim rule went beyond the labeling requirements in Section 611 of the 1990 amendments to the Clean Air Act (42 U.S.C. 7671j) and its implementing EPA regulations at 40 CFR. This confusion has been resolved by replacing the definitions of "Class I substance" and "Class II substance" with a definition of "ozone-depleting substance", and by revising the clause at 52.223-11 to clarify that labeling shall be in accordance with 42 U.S.C. 7671j and 40 CFR Part 82. The intent of the rule is to stay within the bounds of the Clean Air Act and the EPA regulations.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, applies to this final rule and a Final Regulatory Flexibility Analysis has been performed. A copy of the analysis may be obtained from the FAR Secretariat.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 23 and 52

Government procurement.

Dated: June 4, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Interim Rule Adopted as Final With Changes

Accordingly, the interim rule amending 48 CFR Parts 23 and 52 which was published at 60 FR 28500, May 31, 1995, is adopted as final with changes as set forth below:

1. The authority citation for 48 CFR Parts 23 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 23—ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE**23.800 [Amended]**

2. Section 23.800 is amended by removing the last sentence.

3. Section 23.802 is revised to read as follows:

23.802 Definition.

Ozone-depleting substance means—

(a) Any substance designated as Class I by EPA (40 CFR part 82), including but not limited to chlorofluorocarbons, halons, carbon tetrachloride, and methyl chloroform; or

(b) Any substance designated as Class II by EPA (40 CFR part 82), including but not limited to hydrochlorofluorocarbons.

23.803 [Amended]

4. Section 23.803 is amended in paragraph (b)(2) by removing the period and inserting “, except in the case of Class I substances being used for specified essential uses, as identified under 40 CFR 82.4(r).”

5. Section 23.804 is revised to read as follows:

23.804 Contract clauses.

Except for contracts to be performed outside the United States, its possessions, and Puerto Rico, the contracting officer shall insert the clause at:

(a) 52.223-11, Ozone-Depleting Substances, in solicitations and contracts for ozone-depleting substances or for supplies that may contain or be manufactured with ozone-depleting substances.

(b) 52.223-12, Refrigeration Equipment and Air Conditioners, in solicitations and contracts for services when the contract includes the maintenance, repair, or disposal of any equipment or appliance using ozone-depleting substances as a refrigerant, such as air conditioners, including motor vehicles, refrigerators, chillers, or freezers.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

6. Section 52.223-11 is revised to read as follows:

52.223-11 Ozone-Depleting Substances.

As prescribed in 23.804(a), insert the following clause:

Ozone-Depleting Substances (Jun 1996)

(a) *Definitions.* *Ozone-depleting substance*, as used in this clause, means any substance designated as Class I by the Environmental Protection Agency (EPA) (40 CFR Part 82),

including but not limited to chlorofluorocarbons, halons, carbon tetrachloride, and methyl chloroform; or any substance designated as Class II by EPA (40 CFR Part 82), including but not limited to hydrochlorofluorocarbons.

(b) The Contractor shall label products which contain or are manufactured with ozone-depleting substances in the manner and to the extent required by 42 U.S.C. 7671j (b), (c), and (d) and 40 CFR Part 82, Subpart E, as follows:

"WARNING: Contains (or manufactured with, if applicable) *, a substance(s) which harm(s) public health and environment by destroying ozone in the upper atmosphere."

* The Contractor shall insert the name of the substance(s).

(End of clause)

[FR Doc. 96-14527 Filed 6-19-96; 8:45 am]

BILLING CODE 6820-EP-P

48 CFR Parts 25 and 52

[FAC 90-39; FAR Case 95-304; Item XIII]

RIN 9000-AG80

Federal Acquisition Regulation; Uruguay Round (1996 Code)

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule adopted as final.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are finalizing without further change the interim rule on the renegotiated General Agreement on Tariffs and Trade (GATT) Government Procurement Agreement (1996 Code) (Uruguay Round). This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: June 20, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Peter O'Such at (202) 501-1759 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-39, FAR case 95-304.

SUPPLEMENTARY INFORMATION:

A. Background

This rule finalizes without further change the interim rule, published in the Federal Register on December 29, 1995 (60 FR 67514), which implemented the Uruguay Round Agreement Act, Public Law 103-465. No

public comments were received in response to the interim rule.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule does not impose any new requirements on contractors, large or small. The rule primarily changes the list of designated foreign countries and extends applicability of the Trade Agreements Act to all agencies for supply and construction contracts over certain dollar thresholds. However, those contracts which are now subject to the Trade Agreements Act were already subject to the Memorandum of Understanding between the United States of America and the European Community on Government Procurement. This change will have minimal impact on U.S. firms. The rule does not diminish existing preferences for small businesses, because purchases under small and small disadvantaged business preference programs are exempted from the Trade Agreements Act.

C. Paperwork Reduction Act

The final rule does not impose any new reporting or recordkeeping requirements which require OMB approval under 44 U.S.C. 3501, *et seq.* Contractors, which previously were required to respond to the now deleted provision at 52.225-16, Buy American Act—Supplies under European Community Agreement Certificate, will now be required to respond to the comparable provision at 52.225-8, Buy American Act—Trade Agreements—Balance of Payments Program Certificate (OMB Control No. 9000-0046).

List of Subjects in 48 CFR Parts 25 and 52

Government procurement.

Interim Rule Adopted as Final

Accordingly, the interim rule amending 48 CFR Parts 25 and 52, which was published at 60 FR 67514, December 29, 1995, is adopted as final without further change.

The authority citation for 48 CFR Parts 25 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

Dated: June 4, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 96-14528 Filed 6-19-96; 8:45 am]

BILLING CODE 6820-EP-P

48 CFR Parts 25, 27, and 52

[FAC 90-39, FAR Case 93-310, Item XIV]

RIN 9000-AF60

Federal Acquisition Regulation; Implementation of the North American Free Trade Agreement Implementation Act

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Revised interim rule with request for comment.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to a revised interim rule implementing the North American Free Trade Agreement (NAFTA) Implementation Act. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

DATES: Effective Date: June 20, 1996.

Comment Date: Comments should be submitted to the FAR Secretariat at the address shown below on or before August 19, 1996, to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (MVRs), 18th & F Streets, NW., Room 4035, Attn: Ms. Beverly Fayson, Washington, DC 20405. Please cite FAC 90-39, FAR case 93-310 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Mr. Peter O'Such at (202) 501-1759 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-39, FAR case 93-310.

SUPPLEMENTARY INFORMATION:

A. Background

While the North American Free Trade Agreement (NAFTA) remains in effect, the Canadian Free Trade Agreement (CFTA) is suspended. The CFTA interim rule published December 30, 1988 (53 FR 53340, FAC 84-41, FAR case 88-070), which revised the FAR coverage

concerning Canadian products, has been revised and updated by FAR case 93-310, which implements NAFTA. As a result, FAR case 88-070 was closed into FAR case 93-310.

An interim rule was published January 5, 1994 (59 FR 544, FAC 90-19, FAR case 93-310), to implement NAFTA. Based on the analysis of public comments, the interim rule has been revised to—

(1) Add language to FAR 25.402 to address the applicability of NAFTA to services.

(2) Implement Article 1709(10) of NAFTA and Section 6 of Executive Order 12889 of December 27, 1993. FAR 27.208 is added to make contracting personnel aware of the requirements to obtain authorization from the owner of technology covered by a valid patent prior to use by or for the Federal Government and of waivers permitted under Section 6 of Executive Order 12889.

(3) Revise 52.212-3 and 52.212-5 to reflect changes to 52.225-20 and 52.225-21, accomplished in this revised interim rule.

(4) Add alternates for the provision at 52.225-20 and the clause at 52.225-21 for use in procurements between \$25,000 and \$50,000.

(5) Add a new clause 52.225-22, "Balance of Payments Program—Construction Materials—NAFTA," for construction contracts awarded outside the United States with an estimated value over \$6,500,000.

B. Regulatory Flexibility Act

The amendments in this revised interim rule are not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because (1) the new clause, "Balance of Payments Program—Construction Materials—NAFTA," is only for construction contracts awarded outside the United States; (2) the new coverage at 27.208 pertains only to patents held by parties from NAFTA countries; and (3) other changes are primarily for clarification or editorial. An Initial Regulatory Flexibility Analysis (IRFA) was prepared and provided to the Chief Counsel for Advocacy for the Small Business Administration when the interim rule was issued in January 1994. A copy of the IRFA may be obtained from the FAR Secretariat. Comments are invited. Comments from small entities concerning the affected FAR subparts will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C.

601 *et seq.* (FAC 90-39, FAR case 93-310), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501 *et seq.*

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DOD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that compelling reasons exist to promulgate this revised interim rule without prior opportunity for public comment. This action is necessary because the North American Free Trade Agreement Implementation Act, signed into law on December 8, 1993, became effective on January 1, 1994, and several substantive changes to the existing interim rule are needed to fully implement the Act. However, pursuant to Public Law 98-577 and FAR 1.501, public comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Parts 25, 27, and 52

Government procurement.

Dated: June 4, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR parts 25, 27, and 52 are amended as set forth below:

1. The authority citation for 48 CFR parts 25, 27, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 25—FOREIGN ACQUISITION

2. Section 25.305 is amended in the section heading and in the heading of paragraph (c) by revising the word "clause" to read "clauses"; designating the existing paragraph (c) as (c)(1); and adding paragraph (c)(2) to read as follows:

25.305 Solicitation provision and contract clauses.

* * * * *

(c) * * *
(2) For construction contracts outside the United States, with an estimated value of \$6,500,000 or more, insert the clause at 52.225-22, Balance of

Payments Program—Construction Materials—NAFTA.

3. Section 25.402 is amended by adding paragraph (g) to read as follows:

25.402 Policy.

* * * * *

(g) The procedures in 25.405 apply to the acquisition of NAFTA country services. These are services provided by a firm established in a NAFTA country under service contracts with an estimated acquisition value of \$50,000 or more (\$6,500,000 or more for construction), except for the following excluded services (Federal Service Code or Category from the Federal Procurement Data System Product/Service Code Manual is indicated in parentheses):

(1) Information processing and related telecommunications services (D):

(i) Automated data processing (ADP) telecommunications and transmission services (D304).

(ii) ADP teleprocessing and timesharing services (D305).

(iii) Telecommunications network management services (D316).

(iv) Automated news services, data services, or other information services (D317).

(v) Other ADP and telecommunications services (D399).

(2) Maintenance, repair, modification, rebuilding, and installation of equipment (J):

(i) Maintenance, repair, modification, rebuilding, and installation of equipment related to ships (J019).

(ii) Non-nuclear ship repair (J998).

(3) Operation of Government-owned facilities (M):

(i) All facilities operated by the Department of Defense, Department of Energy, and the National Aeronautics and Space Administration.

(ii) Research and development facilities (M180).

(4) Utilities—all classes (S).

(5) Transportation, travel, and relocation services—all classes except V503 travel agent services (V).

(6) All services purchased in support of military forces overseas.

(7) Construction dredging services.

4. Section 25.408 is amended by revising paragraphs (a)(3) and (a)(4) to read as follows:

25.408 Solicitation provisions and contract clauses.

(a) * * *

(3) The provision at 52.225-20, Buy American Act—North American Free Trade Agreement Implementation Act—Balance of Payments Program Provision, in solicitations containing the clause at 52.225-21. Use the provision with its

Alternate I if the acquisition value is between \$25,000 and \$50,000; and

(4) The clause at 52.225-21, Buy American Act—North American Free Trade Agreement Implementation Act—Balance of Payments Program, in solicitations and contracts for supplies where the contracting officer has determined that the acquisition is not subject to the Trade Agreements Act but is subject to NAFTA. Use the clause with its Alternate I if the acquisition value is between \$25,000 and \$50,000.

* * * * *

PART 27—PATENTS, DATA, AND COPYRIGHTS

5. Section 27.208 is added to read as follows:

27.208 Use of patented technology under the North American Free Trade Agreement.

(a) The requirements of this section apply to the use of technology covered by a valid patent when the patent holder is from a country that is a party to the North American Free Trade Agreement (NAFTA).

(b) Article 1709(10) of NAFTA generally requires a user of technology covered by a valid patent to make a reasonable effort to obtain authorization prior to use of the patented technology. However, NAFTA provides that this requirement for authorization may be waived in situations of national emergency or other circumstances of extreme urgency, or public noncommercial use.

(c) Section 6 of Executive Order 12889 of December 27, 1993, waives the requirement to obtain advance authorization for—

(1) An invention used or manufactured by or for the Federal Government, except that the patent owner must be notified whenever the agency or its contractor, without making a patent search, knows or has demonstrable reasonable grounds to know that an invention described in and covered by a valid U.S. patent is or will be used or manufactured without a license; and

(2) The existence of a national emergency or other circumstances of extreme urgency, except that the patent owner must be notified as soon as it is reasonably practicable to do so.

(d) Section 6(c) of Executive Order 12889 provides that the notice to the patent owner does not constitute an admission of infringement of a valid privately owned patent.

(e) When addressing issues regarding compensation for the use of patented technology, Government personnel should be advised that NAFTA uses the

term “adequate remuneration.”

Executive Order 12889 equates “remuneration” to “reasonable and entire compensation” as used in 28 U.S.C. 1498, the statute which gives jurisdiction to the U.S. Court of Federal Claims to hear patent and copyright cases involving infringement by the U.S. Government.

(f) Depending on agency procedures, either the technical/requiring activity or the contracting officer shall ensure compliance with the notice requirements of NAFTA Article 1709(10). A contract award should not be suspended pending notification to the right holder.

(g) When questions arise regarding the notice requirements or other matters relating to this section, the contracting officer should consult with legal counsel.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

6. Section 52.212-3 is amended—

(a) By revising the date of the provision to read “(JUN 1996)”;

(b) Redesignating paragraphs (g)(1) through (g)(4) as (g)(1)(i) through (g)(1)(iv) and redesignating paragraph (g) as “(g)(1)”;

removing “(NAFTA)” each time it appears (twice); and removing the word “Certificate”;

(c) Revising newly designated paragraphs (g)(1)(i), (g)(1)(iii), and (g)(1)(iv); and

(d) Adding paragraph (g)(2) to read as follows:

52.212-3 Offeror Representations and Certifications—Commercial Items.

* * * * *

Offeror Representations and Certifications—Commercial Items (JUN 1996)

* * * * *

(g)(1) * * *

(i) Each end product being offered, except those listed in paragraph (g)(1)(ii) of this provision, is a domestic end product (as defined in the clause entitled “Buy American Act—North American Free Trade Agreement Implementation Act—Balance of Payments Program.” Components of unknown origin have been considered to have been mined, produced, or manufactured outside the United States.

* * * * *

(iii) Offers will be evaluated by giving certain preferences to domestic end products or NAFTA country end products over other end products. In order to obtain these preferences in the evaluation of each excluded end product listed in paragraph (g)(1)(ii) of this provision, offerors must identify below those excluded end products that are NAFTA country end products. Products that are not identified below will not be deemed NAFTA country end products.

The following supplies qualify as “NAFTA country end products” as that term is defined in the clause entitled “Buy American Act—North American Free Trade Agreement Implementation Act—Balance of Payments Program”:

(Insert line item numbers)

(iv) Offers will be evaluated in accordance with Part 25 of the Federal Acquisition Regulation. In addition, if this solicitation is for supplies for use outside the United States, an evaluation factor of 50 percent will be applied to offers of end products that are not domestic or NAFTA country end products.

(2) *Alternate I.* If Alternate I to the clause at 52.225-21 is included in this solicitation, substitute the following paragraph (g)(1)(iii) for paragraph (g)(1)(iii) of this provision:

(g)(1)(iii) Offers will be evaluated by giving certain preferences to domestic end products or Canadian end products over other end products. In order to obtain these preferences in the evaluation of each excluded end product listed in paragraph (b) of this provision, offerors must identify below those excluded end products that are Canadian end products. Products that are not identified below will not be deemed Canadian end products.

The following supplies qualify as “Canadian end products” as that term is defined in the clause entitled “Buy American Act—North American Free Trade Agreement Implementation Act—Balance of Payments Program”:

(Insert line item numbers)

7. Section 52.212-5 is amended by revising the date of the clause to read “(JUN 1996)”;

paragraph (b)(15) is redesignated as (b)(15)(i); and (b)(15)(ii) is added to read as follows:

52.212-5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items.

* * * * *

Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items (Jun 1996)

* * * * *

(b) * * *

____(15)(ii) Alternate I of 52.225-21.

* * * * *

8. Section 52.225-20 is amended in the section heading and provision heading by revising the word “Certificate” to read “Provision”; revising the date of the provision to read “(JUN 1996)”;

revising paragraphs (a), (c), and (d) of the provision; and adding Alternate I to read as follows:

52.225-20 Buy American Act—North American Free Trade Agreement Implementation Act—Balance of Payments Program Provision.

* * * * *

Buy American Act—North American Free Trade Agreement Implementation Act—Balance of Payments Program Provision (Jun 1996)

(a) Each end product being offered, except those listed in paragraph (b) of this provision, is a domestic end product (as defined in the clause entitled "Buy American Act—North American Free Trade Agreement Implementation Act—Balance of Payments Program"). Components of unknown origin have been considered to have been mined, produced, or manufactured outside the United States.

* * * * *

(c) Offers will be evaluated by giving certain preferences to domestic end products or NAFTA country end products over other end products. In order to obtain these preferences in the evaluation of each excluded end product listed in paragraph (b) of this provision, offerors must identify below those excluded end products that are NAFTA country end products. Products that are not identified below will not be deemed NAFTA country end products.

The following supplies qualify as "NAFTA country end products" as that term is defined in the clause entitled "Buy American Act—North American Free Trade Agreement Implementation Act—Balance of Payments Program":

Line item no.	Country of origin

(List as necessary)

(d) Offers will be evaluated in accordance with Part 25 of the Federal Acquisition Regulation. In addition, if this solicitation is for supplies for use outside the United States, an evaluation factor of 50 percent will be applied to offers of end products that are not domestic or NAFTA country end products. (End of provision)

Alternate I (JUN 1996). As prescribed in 25.408(a)(3), substitute the following paragraph (c) for paragraph (c) of the basic provision:

(c) Offers will be evaluated by giving certain preferences to domestic end products or Canadian end products over other end products. In order to obtain these preferences in the evaluation of each excluded end product listed in paragraph (b) of this provision, offerors must identify below those excluded end products that are Canadian end products. Products that are not identified below will not be deemed Canadian end products.

The following supplies qualify as "Canadian end products" as that term is defined in the clause entitled "Buy American Act—North American Free Trade Agreement Implementation Act—Balance of Payments Program":

(Insert line item numbers)

9. Section 52.225–21 is amended by revising the date of the clause to read "(JUN 1996)"; in the fourth sentence of paragraph (c) by revising the word

"certifying" to read "specifying"; removing paragraph (d) of the clause; and by adding Alternate I to read as follows:

52.225–21 Buy American Act—North American Free Trade Agreement Implementation Act—Balance of Payments Program.

* * * * *

Buy American Act—North American Free Trade Agreement Implementation Act—Balance of Payments Program (Jun 1996)

* * * * *

Alternate I (JUN 1996). As prescribed in 25.408(a)(4), add the following definition to paragraph (a) and substitute the following paragraph (c) for paragraph (c) of the basic clause:

Canadian end product means an article that (1) is wholly the growth, product, or manufacture of Canada, or (2) in the case of an article which consists in whole or in part of materials from another country or instrumentality, has been substantially transformed in Canada into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply; provided, that the value of those incidental services does not exceed that of the product itself.

(c) The Contracting Officer has determined that NAFTA applies to this acquisition. Unless otherwise specified, NAFTA applies to all items in the schedule. The Contractor agrees to deliver under this contract only domestic end products unless, in its offer, it specifies delivery of foreign end products in the provision entitled "Buy American Act—North American Free Trade Agreement Implementation Act—Balance of Payments Program Certificate." An offer specifying that a Canadian end product will be supplied requires the Contractor to supply a Canadian end product or, at the Contractor's option, a domestic end product.

10. Section 52.225–22 is added to read as follows:

52.225–22 Balance of Payments Program—Construction Materials—NAFTA.

As prescribed in 25.305(c)(2), insert the following clause:

Balance of Payments Program—Construction Materials—NAFTA (Jun 1996)

(a) *Definitions.* As used in this clause—

Components means those articles, materials, and supplies incorporated directly into construction materials.

Construction material means an article, material, or supply brought to the construction site for incorporation into the building or work. Construction material also includes an item brought to the site pre-assembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire

alarm, and audio evacuation systems, which are discrete systems incorporated into a public building or work and which are produced as a complete system, shall be evaluated as a single and distinct construction material regardless of when or how the individual parts or components of such systems are delivered to the construction site.

Domestic construction material means (1) an unmanufactured construction material mined or produced in the United States, or (2) a construction material manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as the construction materials determined to be unavailable pursuant to subparagraph 25.202(a)(3) of the Federal Acquisition Regulation shall be treated as domestic.

NAFTA country construction material means a construction material that (1) is wholly the growth, product, or manufacture of a NAFTA country, or (2) in the case of a construction material which consists in whole or in part of materials from another country or instrumentality, has been substantially transformed in a NAFTA country into a new and different construction material distinct from the materials from which it was transformed.

North American Free Trade Agreement (NAFTA) country means Canada and Mexico.

(b) The Balance of Payments Program provides that the Government give preference to domestic construction material.

(c) The Contractor agrees that only domestic construction material or NAFTA country construction material will be used by the Contractor, subcontractors, material men, and suppliers in the performance of this contract, except for other foreign construction materials, if any, listed in this contract.

(End of clause)

[FR Doc. 96–14529 Filed 6–19–96; 8:45 am]

BILLING CODE 6820–EP–P

48 CFR Part 25

[FAC 90–39; FAR Case 95–030; Item XV]

RIN 9000–AG96

Federal Acquisition Regulation; Caribbean Basin Countries

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) to implement the extension by the U.S. Trade Representative of the date of eligibility under the Trade Agreements

Act for products of Caribbean Basin countries. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: September 30, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Peter O'Such at (202) 501-1759 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-39, FAR case 95-030.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends FAR 25.402(b) by changing the date "1995" to "1996." Products of Caribbean Basin countries were to be treated as eligible products until September 30, 1995, unless otherwise extended by the U.S. Trade Representative (USTR) by means of a Federal Register notice. On October 3, 1995, the USTR published an extension through September 30, 1996 (60 FR 51822).

B. Regulatory Flexibility Act

The final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98-577, and publication for public comments is not required. Therefore, the Regulatory Flexibility Act does not apply. However, comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAC 90-39, FAR case 95-030), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 25

Government procurement.

Dated: June 4, 1996.

Edward C. Loeb,
Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 25 is amended as set forth below:

PART 25—FOREIGN ACQUISITION

1. The authority citation for 48 CFR Part 25 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

§ 25.402 [Amended]

2. Section 25.402 is amended in the first sentence of paragraph (b) by removing "(see 51 FR 6964-6965, February 27, 1986)"; and in the second sentence by revising "1995" to read "1996".

[FR Doc. 96-14530 Filed 6-19-96; 8:45 am]

BILLING CODE 6820-EP-P

48 CFR Parts 25 and 52

[FAC 90-39; FAR Case 92-048; Item XVI]

RIN 9000-AF83

**Federal Acquisition Regulation;
Fluctuating Exchange Rates**

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) to provide guidance and a solicitation provision regarding evaluation of foreign currency offers. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: August 19, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Peter O'Such at (202) 501-1759 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-39, FAR case 92-048.

SUPPLEMENTARY INFORMATION:

A. Background

An amendment to FAR Subpart 25.5 and a corresponding solicitation provision were published in the Federal Register as a proposed rule, with a request for comments (see 59 FR 16391, April 6, 1994). Two responses were received. The Council's analysis of those comments resulted in a revision to the rule to delete "commercially available" in the description of the current market exchange rate used in the evaluation of foreign currency offers.

The final rule also adds language at 25.501(b) and 52.225-4 to address evaluation of offers in negotiated acquisitions, when award is based on initial offers received.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule pertains to contracts entered into and performed overseas and, with rare exceptions, will affect only foreign concerns. No comments were received on the impact of this rule on small entities during the public comment period.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 25 and 52

Government procurement.

Dated: June 4, 1996.

Edward C. Loeb,
Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 25 and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 25 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 25—FOREIGN ACQUISITION

2. In part 25, subpart 25.5, the heading is revised to read as follows:

Subpart 25.5—Use of Foreign Currency

3. Section 25.501 is revised to read as follows:

25.501 Policy.

(a) Unless a specific currency is required by international agreement or by the Trade Agreements Act (see 25.405(d)), contracting officers shall determine whether solicitations for contracts to be entered into and performed outside the United States will require submission of offers either in U.S. currency or in a specified foreign

currency. In unusual circumstances, the contracting officer may permit submission of offers in other than a specified currency.

(b) To ensure a fair evaluation of offers, solicitations should generally require all offers to be priced in the same currency. However, if submission of offers in other than a specified currency is permitted, the contracting officer shall convert the offered prices to U.S. currency for evaluation purposes. The contracting officer shall use the current market exchange rate from a commonly used source in effect on the

(1) Date of bid opening for sealed bid acquisitions,

(2) Closing date for negotiated acquisitions when award is based on initial offers, or

(3) Due date for receipt of best and final offers, for other negotiated acquisitions.

(c) If contracts are priced in foreign currency, agencies must ensure that adequate funds are available to cover currency fluctuations in order to avoid a violation of the Anti-Deficiency Act.

4. Section 25.502 is added to read as follows:

25.502 Solicitation provision.

The contracting officer shall insert the provision at 52.225-4, Evaluation of Foreign Currency Offers, in solicitations if the use of other than a specified currency is permitted. The contracting officer shall insert the source of the rate to be used in the evaluation of offers.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5. Section 52.225-4 is added to read as follows:

52.225-4 Evaluation of Foreign Currency Offers.

As prescribed in 25.502, insert the following provision:

EVALUATION OF FOREIGN CURRENCY OFFERS (AUG 1996)

If offers are received in more than one currency, offers shall be evaluated by converting the foreign currency to United States currency using (*insert source of rate*) in effect on the (a) date of bid opening for sealed bid acquisitions, (b) closing date for negotiated acquisitions when award is based on initial offers, or (c) due date for receipt of best and final offers, for other acquisitions.

(End of provision)

[FR Doc. 96-14531 Filed 6-19-96; 8:45 am]

BILLING CODE 6820-EP-P

48 CFR Parts 28 and 52

[FAC 90-39, FAR Case 95-301, Item XVII]

RIN 9000-AG99

Federal Acquisition Regulation; Irrevocable Letters of Credit and Alternatives to Miller Act Bonds

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule with request for comment.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to an interim rule to amend the Federal Acquisition Regulation (FAR) to implement OFPP Policy Letter 91-4 (previously considered under FAR case 91-113, Irrevocable Letters of Credit) and provide alternatives to Miller Act Bonds, as required by Section 4104(b) of the Federal Acquisition Streamlining Act of 1994 (FASA) (Pub. L. 103-355). This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

DATES: Effective Date: June 20, 1996.

Comment Date: Comments should be submitted to the FAR Secretariat at the address shown below on or before August 19, 1996 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (MVRs), 18th & F Streets, NW, Room 4035, Attn: Ms. Beverly Fayson, Washington, DC 20405.

Please cite FAC 90-39, FAR case 95-301 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Jack O'Neill at (202) 501-3856 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-39, FAR case 95-301.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule amends FAR Parts 28 and 52 to provide for use of Irrevocable Letters of Credit as an alternative to corporate or individual sureties as security for Miller Act bonds, and provides alternatives to Miller Act bonds for construction contracts valued at \$25,000 to \$100,000, which are no longer subject to the Miller Act, in accordance with Section 4104(b)(1) of FASA.

B. Regulatory Flexibility Act

The interim rule may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because the rule provides alternatives to Miller Act bonds for construction contracts valued at \$25,000 to \$100,000. In addition, it offers Irrevocable Letters of Credit as an alternative to surety on Miller Act bonds for construction contracts over \$100,000. These alternatives may be helpful to both large and small construction contractors. An Initial Regulatory Flexibility Analysis (IRFA) has been prepared and will be provided to the Chief Counsel for Advocacy for the Small Business Administration. A copy of the IRFA may be obtained from the FAR Secretariat. Comments are invited. Comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAR Case 95-301), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DOD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary because Section 4104(b) of the Federal Acquisition Streamlining Act of 1994 (Public Law 103-355), regarding Irrevocable Letters of Credit and alternatives to Miller Act Bonds, requires immediate implementation. However, pursuant to Public Law 98-577 and FAR 1.501, public comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Parts 28 and 52

Government procurement.

Dated: June 4, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR parts 28 and 52 are amended as set forth below:

1. The authority citation for 48 CFR parts 28 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 28—BONDS AND INSURANCE

2. Section 28.001 is amended in the definition of "Bond" by revising the first sentence; and adding, in alphabetical order, the definition "Irrevocable letter of credit" to read as follows:

28.001 Definitions.

* * * * *

Bond means a written instrument executed by a bidder or contractor (the "principal"), and a second party ("the surety" or "sureties") (except as provided in 28.204), to assure fulfillment of the principal's obligations to a third party (the "obligee" or "Government"), identified in the bond.

* * * * *

Irrevocable letter of credit (ILC) means a written commitment by a federally insured financial institution to pay all or part of a stated amount of money on demand to the Government (the beneficiary) until the expiration date of the letter. The letter of credit cannot be revoked or conditioned.

* * * * *

28.102 Performance and payment bonds and alternative payment protections for construction contracts.

3. The heading at section 28.102 is revised as set forth above.

4. Section 28.102-1 is amended in paragraph (a) introductory text by revising "\$25,000" to read "\$100,000"; redesignating paragraph (b) as (c) and adding after the word "bonds" the phrase "or alternative payment protection"; and adding (b)(1) and (b)(2). The revised text reads as follows:

28.102-1 General.

* * * * *

(b)(1) Pursuant to Section 4104(b)(2) of the Federal Acquisition Streamlining Act of 1994 (Public Law 103-355), for construction contracts greater than \$25,000, but not greater than \$100,000, the contracting officer shall select two or more of the following payment protections, giving particular consideration to inclusion of an irrevocable letter of credit as one of the selected alternatives:

(i) A payment bond.

(ii) An irrevocable letter of credit (ILC).

(iii) *A tripartite escrow agreement.* The prime contractor establishes an escrow account in a federally insured financial institution and enters into a tripartite escrow agreement with the financial institution, as escrow agent, and all of the suppliers of labor and material. The escrow agreement shall establish the terms of payment under the contract and of resolution of disputes among the parties. The Government makes payments to the contractor's escrow account, and the escrow agent distributes the payments in accordance with the agreement, or triggers the disputes resolution procedures if required.

(iv) *Certificates of deposit.* The contractor deposits certificates of deposit from a federally insured financial institution with the contracting officer, in an acceptable form, executable by the contracting officer.

(v) A deposit of the types of security listed in 28.204-1 and 28.204-2.

(2) The contractor shall submit to the Government one of the payment protections selected by the contracting officer.

* * * * *

5. Section 28.102-2 is amended by—
(a) Revising the heading of paragraph (b) and (b)(1) introductory text;

(b) In the last sentence of paragraph (b)(2) by removing "subparagraph (1) immediately above" and inserting "paragraph (b)(1) of this subsection" in its place;

(c) At the end of paragraph (b)(3) by removing the period and inserting ", or to furnish additional alternative payment protection." in its place;

(d) In paragraph (c)(1) and the first sentence of (c)(2) by inserting after the word "bonds" the phrase "or alternative payment protection";

(e) In the second sentence of paragraph (c)(2) by removing the word "above" and inserting "of this subsection" in its place;

(f) Adding paragraph (d). The revised text reads as follows:

28.102-2 Amount required.

* * * * *

(b) *Payment bonds or alternative payment protection.* (1) The penal amount of payment bonds or alternative payment protection shall equal—

* * * * *

(d) *Reducing amounts.* The contracting officer has the discretion to reduce the amount of security to support a bond, subject to the conditions of 28.203-5(c) or 28.204(b).

6. Section 28.102-3 is amended by revising the section heading; redesignating paragraphs (a), (b) and (c) as (a)(1), (a)(2) and (a)(3), respectively; redesignating the undesignated introductory paragraph as paragraph (a); and adding paragraph (b) to read as follows:

28.102-3 Solicitation requirements and contract clause.

* * * * *

(b) Insert the clause at 52.228-13, Alternative Payment Protections, in solicitations and contracts for construction, when the estimated or actual value exceeds \$25,000 but does not exceed \$100,000. Complete the clause by specifying the payment protection or protections selected (see 28.102-1(b)(1)), the penal amount required, and the deadline for submission.

7. Section 28.106-3 is amended by revising the section heading and adding paragraph (c) to read as follows:

28.106-3 Additional bond or security.

* * * * *

(c) When an ILC is used as an alternative to corporate or individual sureties as security for a performance or payment bond and the contract performance period is extended, the contracting officer shall require the contractor to provide an ILC with an appropriately extended maturity that meets the requirements of 28.204-3(f).

8. Section 28.106-5 is amended by redesignating paragraph (b) as (c); and adding a new paragraph (b) to read as follows:

§ 28.106-5 Consent of surety.

* * * * *

(b) When a contract for which performance or payment is secured by any of the types of security listed in 28.204 is modified as described in paragraph (a) of this subsection, no consent of surety is required.

* * * * *

9. Section 28.106-8 is added to read as follows:

28.106-8 Payment to subcontractors or suppliers.

The contracting officer will only authorize payment from an ILC (or any other cash equivalent security) upon a judicial determination of the rights of the parties, a signed notarized statement by the contractor that the payment is due and owed, or a signed agreement between the parties as to amount due and owed.

10. Section 28.203-5 is amended by redesignating paragraph (a)(2) as (a)(3) and revising the heading; adding a new

paragraph (a)(2); and in the second sentence of paragraph (c) by removing "and (2)" and inserting in its place "through (3)". The revised text reads as follows:

28.203-5 Release of lien.

* * * * *

(a) * * *

(2) *Contracts subject to alternative payment protection (28.102-1(b)(1)).* The security interest shall be maintained for the full contract performance period plus one year.

(3) *Other contracts not subject to the Miller Act.* * * *

* * * * *

11. Section 28.204 is revised to read as follows:

28.204 Alternatives in lieu of corporate or individual sureties.

(a) Any person required to furnish a bond to the Government may furnish any of the types of security listed in 28.204-1 through 28.204-3 instead of a corporate or individual surety for the bond. When any of those types of security are deposited, a statement shall be incorporated in the bond form pledging the security. The contractor shall execute the bond forms as the principal. Agencies shall establish safeguards to protect against loss of the security and shall return the security or its equivalent to the contractor when the bond obligation has ceased.

(b) Upon written request by any contractor securing a performance or payment bond by any of the types of security listed in 28.204-1 through 28.204-3, the contracting officer may release a portion of the security only when the conditions allowing the partial release of lien in 28.203-5(c) are met. The contractor shall, as a condition of the partial release, furnish an affidavit agreeing that the release of such security does not relieve the contractor of its obligations under the bond(s).

(c) The contractor may satisfy a requirement for bond security by furnishing a combination of the types of security listed in 28.204-1 through 28.204-3 or a combination of bonds supported by these types of security and additional surety bonds under 28.202 or 28.203. During the period for which a bond supported by security is required, the contractor may substitute one type of security listed in 28.204-1 through 28.204-3 for another, or may substitute, in whole or combination, additional surety bonds under 28.202 or 28.203.

12. Sections 28.204-3 and 28.204-4 are added to read as follows:

28.204-3 Irrevocable letter of credit (ILC).

(a) Any person required to furnish a bond has the option to furnish a bond secured by an ILC in an amount equal to the penal sum required to be secured (see 28.204). A separate ILC is required for each bond.

(b) The ILC shall be irrevocable, unconditional, expire only as provided in paragraph (f) of this subsection, and be issued by an acceptable federally insured financial institution as provided in paragraph (g) of this subsection. ILCs over \$5 million must be confirmed by another acceptable financial institution that had letter of credit business of at least \$25 million in the past year.

(c) To draw on the ILC, the contracting officer shall use the sight draft set forth in the clause at 52.228-14 and present it with the ILC to the issuing financial institution or the confirming financial institution (if any).

(d) If the contractor does not furnish an acceptable replacement ILC, or other acceptable substitute, at least 30 days before an ILC's scheduled expiration, the contracting officer shall immediately draw on the ILC.

(e) If, after the period of performance of a contract where ILCs are used to support payment bonds, there are outstanding claims against the payment bond, the contracting officer shall draw on the ILC prior to the expiration date of the ILC to cover these claims.

(f) Expiration dates shall be established as follows:

(1) If used as a bid guarantee, the ILC should expire no earlier than 60 days after the close of the bid acceptance period.

(2) If used as an alternative to corporate or individual sureties as security for a performance or payment bond, the offeror/contractor may submit an ILC to cover the entire period of performance or an ILC with an initial expiration date which is a minimum period of one year from the date of issuance, with a provision which states that the ILC is automatically extended without amendment for one year from the expiration date, or any future expiration date, until the period of performance is completed. The final expiration date shall be:

(i) For contracts subject to the Miller Act, the later of—

(A) One year following the expected date of final payment;

(B) For performance bonds only, until completion of any warranty period; or

(C) For payment bonds only, until resolution of all claims filed against the payment bond during the one-year period following final payment.

(ii) For contracts not subject to the Miller Act, the later of—

(A) 90 days following final payment; or

(B) Until completion of any warranty period for performance bonds only.

(g) The ILC shall be issued or confirmed by a federally insured financial institution rated investment grade or higher.

(1) The offeror/contractor shall provide the contracting officer a credit rating that indicates the financial institution has the required rating(s) as of the date of issuance of the ILC.

(2) If the contracting officer learns that a financial institution's rating has dropped below the required level, the contracting officer shall give the contractor 30 days to substitute an acceptable ILC or shall draw on the ILC using the sight draft in paragraph (g) of the clause at 52.228-14.

(h) Additional information on credit rating services and investment grade ratings, and a copy of the Uniform Customs and Practice (UCP) for Documentary Credits, 1983 Revision, International Chamber of Commerce Publication No. 400, is contained within the Office of Federal Procurement Policy Pamphlet No. 7, Use of Irrevocable Letters of Credit. This pamphlet may be obtained by calling the Office of Management and Budget's publications office at (202) 395-7332.

28.204-4 Contract clause.

Insert the clause at 52.228-14, Irrevocable Letter of Credit, in solicitations and contracts for services, supplies, or construction, when a bid guarantee, or performance bonds, or performance and payment bonds are required.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

13. Section 52.228-2 is amended by revising the introductory text, the date in the clause heading, and paragraph (a) of the clause; in paragraph (b) by removing "or"; at the end of paragraph (c) by removing the period and replacing it with "; or"; and adding paragraph (d) to read as follows:

52.228-2 Additional Bond Security.

As prescribed in 28.106-4, insert the following clause:

ADDITIONAL BOND SECURITY (JUN 1996)

* * * * *

(a) Any surety upon any bond, or issuing financial institution for other security, furnished with this contract becomes unacceptable to the Government;

* * * * *

(d) The contract performance period is extended and an irrevocable letter of credit (ILC) is used as security. If the Contractor

does not furnish an acceptable extension or replacement ILC, or other acceptable substitute, at least 30 days before an ILC's scheduled expiration, the Contracting Officer has the right to immediately draw on the ILC. (End of clause)

14. Sections 52.228-13 and 52.228-14 are added to read as follows:

52.228-13 Alternative Payment Protections.

As prescribed in 28.102-3(b), insert the following clause:

ALTERNATIVE PAYMENT PROTECTIONS (JUN 1996)

(a) The Contractor shall submit one of the following payment protections:

(b) The penal sum of the payment protection shall be in the amount of \$ _____.

(c) The submission of the payment protection is required by _____.

(d) The payment protection shall provide protection for the full contract performance period plus a one-year period.

(e) Except for escrow agreements and payment bonds, which provide their own protection procedures, the Contracting Officer is authorized to access funds under the payment protection when it has been alleged in writing by a supplier of labor or material that a nonpayment has occurred, and to withhold such funds pending resolution by administrative or judicial proceedings or mutual agreement of the parties.

(f) When a tripartite escrow agreement is used, the Contractor shall utilize only suppliers of labor and material who signed the escrow agreement.

(End of clause)

52.228-14 Irrevocable Letter of Credit.

As prescribed in 28.204-4, insert the following clause:

IRREVOCABLE LETTER OF CREDIT (JUN 1996)

(a) *Irrevocable letter of credit* (ILC), as used in this clause, means a written commitment by a federally insured financial institution to pay a stated amount of money on demand to the Government (the beneficiary), until the expiration date of the letter. Neither the financial institution nor the offeror/ Contractor can revoke or condition the letter of credit.

(b) If the offeror intends to use an ILC in lieu of a bid bond, or to support other types of bonds such as performance and payment bonds, the letter of credit and letter of confirmation formats in paragraphs (e) and (f) of this clause shall be used.

(c) The letter of credit shall be irrevocable, unconditional, issued by an acceptable federally insured financial institution as provided in paragraph (d) of this clause, and—

(1) If used as a bid guarantee, the ILC shall expire no earlier than 60 days after the close of the bid acceptance period;

(2) If used to secure a performance or payment bond, the offeror/Contractor may submit an ILC to cover the entire period of performance or may submit an ILC with an initial expiration date which is a minimum period of one year from the date of issuance, with a provision which states that the ILC is automatically extended without amendment for one year from the expiration date, or any future expiration date, until the period of performance is completed. The final expiration date shall be:

(i) For contracts subject to the Miller Act, the later of—

(A) One year following the expected date of final payment;

(B) For performance bonds only, until completion of any warranty period; or

(C) For payment bonds only, until resolution of all claims filed against the payment bond during the one-year period following final payment.

(ii) For contracts not subject to the Miller Act, the later of—

(A) 90 days following final payment; or

(B) Until completion of any warranty period for performance bonds only.

(d) The ILC shall be issued or confirmed by a federally insured financial institution rated investment grade or higher. The offeror/ Contractor shall provide the Contracting Officer a credit rating that indicates the financial institution has the required rating(s) as of the date of issuance of the ILC. ILCs over \$5 million must be confirmed by another acceptable financial institution that had letter of credit business of at least \$25 million in the past year.

(e) The following format shall be used by the issuing financial institution to create an ILC:

[Issuing Financial Institution's Letterhead or Name and Address]

Issue Date _____

Irrevocable Letter of Credit No. _____

Account party's name _____

Account party's address _____

For Solicitation No. _____

(For reference only)

TO: [U.S. Government agency]

[U.S. Government agency's address]

1. We hereby establish this irrevocable, unconditional, and transferable Letter of Credit in your favor for one or more drawings up to United States \$ _____. This Letter of Credit is payable at [issuing financial institution's] office at [issuing financial institution's] address and, if any, confirming financial institution's address] and expires with our close of business on _____, or any automatically extended expiration date.

2. We hereby undertake to honor your or transferee's sight draft(s) drawn on issuing and, if any, confirming financial institution, for all or any part of this credit that is presented at the office specified in paragraph 1 of this Letter of Credit on or before the expiration date or any automatically extended expiration date.

3. [This paragraph is omitted if used as a bid guarantee, and subsequent paragraphs are

renumbered.] It is a condition of this Letter of Credit that it is deemed to be automatically extended without amendment for one year from the expiration date hereof, or any future expiration date, unless at least 60 days prior to any expiration date, we notify you or the transferee by registered mail, or other receipted means of delivery, that we elect not to consider this Letter of Credit renewed for any such additional period. At the time we notify you, we also agree to notify the account party (and confirming financial institution, if any) by the same means of delivery.

4. This Letter of Credit is transferable. Transfers and assignments of proceeds are to be effected without charge to either the beneficiary or the transferee/assignee of proceeds.

5. This Letter of Credit is subject to the Uniform Customs and Practice (UCP) for Documentary Credits, 1983 Revision, International Chamber of Commerce Publication No. 400, and to the extent not inconsistent therewith, to the laws of _____ [state of confirming financial institution, if any, otherwise state of issuing financial institution].

6. If this credit expires during an interruption of business of this financial institution as described in Article 19 of the UCP, the financial institution specifically agrees to effect payment if this credit is drawn against within 30 calendar days after the resumption of our business.

Sincerely,

[Issuing financial institution]

(f) The following format shall be used by the financial institution to confirm an ILC: [Confirming Financial Institution's Letterhead or Name and Address] _____, 19 _____

Our Letter of Credit

Advice Number _____

Beneficiary: _____

[U.S. Government agency]

Issuing Financial Institution: _____

Issuing Financial Institution's LC No.: _____

Gentlemen:

1. We hereby confirm the above indicated Letter of Credit, the original of which is attached, issued by _____ [name of issuing financial institution] for drawings of up to United States dollars _____/U.S. \$ _____ and expiring with our close of business on _____ [the expiration date], or any automatically extended expiration date.

2. Draft(s) drawn under the Letter of Credit and this Confirmation are payable at our office located at _____.

3. We hereby undertake to honor sight draft(s) drawn under the Letter of Credit and this Confirmation if presented at our offices as specified herein.

4. [This paragraph is omitted if used as a bid guarantee, and subsequent paragraphs are renumbered.] It is a condition of this confirmation that it be deemed automatically extended without amendment for one year from the expiration date hereof, or any automatically extended expiration date, unless:

(a) At least sixty (60) days prior to any such expiration date we shall notify the

Contracting Officer, or the transferee and the issuing financial institution, by registered mail or other receipted means of delivery, that we elect not to consider this confirmation extended for any such additional period; or

(b) The issuing financial institution shall have exercised its right to notify you or the transferee, the account party, and ourselves, of its election not to extend the expiration date of the Letter of Credit.

5. This confirmation is subject to the Uniform Customs and Practice (UCP) for Documentary Credits, 1983 Revision, International Chamber of Commerce Publication No. 400, and to the extent not inconsistent therewith, to the laws of _____ [state of confirming financial institution].

6. If this confirmation expires during an interruption of business of this financial institution as described in Article 19 of the UCP, we specifically agree to effect payment if this credit is drawn against within 30 calendar days after the resumption of our business.
Sincerely,

[Confirming financial institution]

(g) The following format shall be used by the Contracting Officer for a sight draft to draw on the Letter of Credit:
SIGHT DRAFT

[City, State]

_____, 19 _____

[Name and address of financial institution]

Pay to the order of _____

[Beneficiary Agency] _____

the sum of United States \$ _____

This draft is drawn under _____

Irrevocable Letter of Credit No. _____

[Beneficiary Agency]

By: _____

(End of clause)

[FR Doc. 96-14532 Filed 6-19-96; 8:45 am]

BILLING CODE 6820-EP-P

48 CFR Part 31

[FAC 90-39; FAR Case 94-606; Item XVIII]

RIN 9000-AG93

Federal Acquisition Regulation; Part 31 Agency Supplements

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) to remove the requirement for Civilian Agency Acquisition Council approval for agency supplements to FAR Part 31. This regulatory action was not subject to

Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: August 19, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy F. Olson at (202) 501-3221 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-39, FAR case 94-606.

SUPPLEMENTARY INFORMATION:

A. Background

The Department of Transportation recommended that FAR 31.101 be amended to remove the requirement for Civilian Agency Acquisition Council approval for agency supplements to FAR Part 31. The change does not amend the requirement for approval of class deviations. Accordingly, supplementary coverage will be consistent with the FAR Part 31 coverage, unless a class deviation is approved. Therefore, advance approval of supplements is considered to be unnecessary.

B. Regulatory Flexibility Act

The final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98-577, and publication for public comments is not required. Therefore, the Regulatory Flexibility Act does not apply. However, comments from small entities concerning the affected subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAC 90-39, FAR case 94-606), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 31

Government procurement.
Dated: June 4, 1996.

Edward C. Loeb,
Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 31 is amended as set forth below:

1. The authority citation for 48 CFR Part 31 continues to read as follows:

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 31.101 is amended by removing the third and fourth sentences and replacing them with the following text to read as follows:

31.101 Objectives.

* * * To achieve this uniformity, individual deviations concerning cost principles require advance approval of the agency head or designee. Class deviations for the civilian agencies require advance approval of the Civilian Agency Acquisition Council. Class deviations for the National Aeronautics and Space Administration require advance approval of the Associate Administrator for Procurement. Class deviations for the Department of Defense require advance approval of the Director of Defense Procurement, Office of the Under Secretary of Defense for Acquisition and Technology.

[FR Doc. 96-14533 Filed 6-19-96; 8:45 am]

BILLING CODE 6820-EP-P

48 CFR Part 31

[FAC 90-39; FAR Case 93-020; Item XIX]

RIN 9000-AF99

Federal Acquisition Regulation; Records Retention

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) to explicitly state that contractors must maintain adequate cost records in order to be reimbursed for all claimed costs. This regulatory action was subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. It is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: August 19, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy F. Olson at (202) 501-3221 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-39, FAR case 93-020.

SUPPLEMENTARY INFORMATION:**A. Background**

The guidance for determining cost allowability at FAR 31.201-2 previously did not explicitly state that contractors must maintain adequate cost records in order to be reimbursed for all claimed costs nor did it specifically state that the contracting officer has the authority to disallow costs which are determined to be inadequately supported. This requirement and authority have, heretofore, been considered to be implicit in the cost principles. However, the Councils are revising the FAR to explicitly address these issues because the Office of Federal Procurement Policy SWAT Team on Civilian Agency Contracting in its report of December 3, 1992, "Improving Contracting Practices and Management Controls on Cost-Type Federal Contracts," found that agencies were having difficulty because the FAR was silent on these issues. A new paragraph (d) is added to FAR 31.201-2 to explicitly state that costs claimed for reimbursement must be adequately supported and that the contracting officer may disallow costs which are inadequately supported. A proposed rule was published in the Federal Register at 59 FR 47776 on September 16, 1994. After evaluation of public comments, the Councils agreed to convert the proposed rule to a final rule without further change.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because most contracts awarded to small entities are awarded on a competitive, fixed-price basis and the cost principles do not apply. No comments were received on the impact of this rule on small entities during the public comment period.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: June 4, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 31 is amended as set forth below:

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

1. The authority citation for 48 CFR Part 31 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 31.201-2 is amended by adding paragraph (d) to read as follows:

31.201-2 Determining allowability.

* * * * *

(d) A contractor is responsible for accounting for costs appropriately and for maintaining records, including supporting documentation, adequate to demonstrate that costs claimed have been incurred, are allocable to the contract, and comply with applicable cost principles in this subpart and agency supplements. The contracting officer may disallow all or part of a claimed cost which is inadequately supported.

[FR Doc. 96-14534 Filed 6-19-96; 8:45 am]

BILLING CODE 6820-EP-P

48 CFR Part 31

[FAC 90-39; FAR Case 93-006; Item XX]

RIN 9000-AF98

Federal Acquisition Regulation; Legislative Lobbying Costs

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) cost principles concerning lobbying costs. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: August 19, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy F. Olson at (202) 501-3221 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-39, FAR case 93-006.

SUPPLEMENTARY INFORMATION:**A. Background**

This FAR case was opened to address issues raised by the Office of Management and Budget SWAT team concerning the requirement to maintain records which are in addition to normal records maintained to record lobbying costs under FAR 31.205-22(f). The FAR rule deletes 31.205-22(f) because it conflicts with the recordkeeping requirements in 31.201-6(c), 31.205-22(e), and Cost Accounting Standards (CAS) 405, Accounting for Unallowable Costs (48 CFR 9904.405-50(a)). In addition, the Councils believe that 31.205-22(f) is inconsistent with the clause at 52.203-12, Limitation on Payments to Influence Certain Federal Transactions, which requires contractors to disclose lobbying activities. The reporting of such activities must necessarily be based upon certain contractor records which support the disclosures. The rule also removes the prohibition against reimbursing executive lobbying costs at 31.205-50 and adds it to the list of specifically unallowable lobbying costs at 31.205-22(a). A proposed rule was published in the Federal Register at 59 FR 47776 on September 16, 1994. After evaluation of public comments, the Councils agreed to convert the proposed rule to a final rule without further change.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the revisions clarify a condition of allowability for contractors who wish to be reimbursed under Government contracts. The revisions eliminate a subsection which may be misinterpreted in its application and more accurately describe the subject matter of the cost principle. Further, most contracts awarded to small entities are awarded on a competitive, fixed-price basis and the cost principles do not apply. No comments were received on the impact of this rule on small entities during the public comment period.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors,

contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: June 4, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 31 is amended as set forth below:

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

1. The authority citation for 48 CFR Part 31 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 31.205-22 is amended by revising the section heading; at the end of paragraph (a)(4) by removing the word "or"; at the end of paragraph (a)(5) by removing the period and inserting ";or"; by adding paragraph (a)(6); and by removing paragraph (f) and redesignating paragraph (g) as (f) to read as follows:

31.205-22 Lobbying and political activity costs.

(a) * * *

(6) Costs incurred in attempting to improperly influence (see 3.401), either directly or indirectly, an employee or officer of the Executive branch of the Federal Government to give consideration to or act regarding a regulatory or contract matter.

* * * * *

31.205-50 [Reserved]

3. Section 31.205-50 is removed and reserved.

[FR Doc. 96-14535 Filed 6-19-96; 8:45 am]

BILLING CODE 6820-EP-P

48 CFR Part 31

[FAC 90-39; FAR Case 93-022; Item XXI]

RIN 9000-AG00

Federal Acquisition Regulation; Travel Costs

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council (CAAC) and the Defense Acquisition Regulations Council (DARC) have agreed on a final rule to amend the Federal Acquisition

Regulation (FAR) to specify the documentation required to support the allowability of contractors' claimed travel costs. This regulatory action was subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. It is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: August 19, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy F. Olson at (202) 501-3221 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-39, FAR case 93-022.

SUPPLEMENTARY INFORMATION:

A. Background

A proposed rule was published in the Federal Register at 59 FR 47777, September 16, 1994, because the CAAC and the DARC determined that the FAR did not adequately specify what documentation is required to support travel costs incurred under Government contracts. The rule reflects a recommendation made by the Office of Federal Procurement Policy SWAT Team on Civilian Agency Contracting in its report of December 3, 1992, entitled "Improving Contracting Practices and Management Controls on Cost-Type Federal Contracts," which found that agencies were having difficulty because the travel cost principle is silent on the documentation requirements.

The rule amends FAR 31.205-46 by adding paragraph (a)(7) which sets forth specific documentation criteria for travel costs. The major difference between the final rule and the proposed rule is that the final rule strikes the reference to "time" and adds a parenthetical after "place" in (a)(7)(i) to make the rule consistent with similar requirements already imposed by section 274 of the Internal Revenue Code for claiming costs for Federal tax purposes (26 U.S.C. 274(d)). The final rule also coincides with guidance currently contained in the Defense Contract Audit Manual (CAM) at CAM 7-1002.2.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because most contracts awarded to small entities are awarded on a competitive, fixed-price

basis and the cost principles do not apply. No comments were received on the impact of this rule on small entities during the public comment period.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: June 4, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 31 is amended as set forth below:

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

1. The authority citation for 48 CFR Part 31 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 31.205-46 is amended—
(a) By adding a heading to paragraph (a) and by revising paragraph (a)(1);
(b) By revising the first sentence of paragraph (a)(3)(iv); and
(c) By adding paragraph (a)(7) immediately preceding paragraph (b) to read as follows:

31.205-46 Travel costs.

(a) *Costs for transportation, lodging, meals, and incidental expenses.* (1) Costs incurred by contractor personnel on official company business are allowable, subject to the limitations contained in this subsection. Costs for transportation may be based on mileage rates, actual costs incurred, or on a combination thereof, provided the method used results in a reasonable charge. Costs for lodging, meals, and incidental expenses may be based on per diem, actual expenses, or a combination thereof, provided the method used results in a reasonable charge.

* * * * *

(3) * * *

(iv) Documentation to support actual costs incurred shall be in accordance with the contractor's established practices, subject to paragraph (a)(7) of this subsection, and provided that a receipt is required for each expenditure in excess of \$25.00. * * *

* * * * *

(7) Costs shall be allowable only if the following information is documented:

(i) Date and place (city, town, or other similar designation) of the expenses;

(ii) Purpose of the trip; and

(iii) Name of person on trip and that person's title or relationship to the contractor.

[FR Doc. 96-14536 Filed 6-19-96; 8:45 am]

BILLING CODE 6820-EP-P

48 CFR Parts 32 and 52

[FAC 90-39; FAR Case 92-046; Item XXII]

RIN 9000-AF41

Federal Acquisition Regulation; Prompt Payment Overseas

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule adopted as final.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to convert the interim rule published in the Federal Register at 59 FR 11379, March 10, 1994, and amended by FAR case 94-770 (60 FR 34741, July 3, 1995), to a final rule. This rule amends the Federal Acquisition Regulation (FAR) to reflect that the Prompt Payment Act applies to overseas contracts. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: June 20, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy F. Olson at (202) 501-3221 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-39, FAR case 92-046.

SUPPLEMENTARY INFORMATION:

A. Background

On January 13, 1992, the Armed Services Board of Contract Appeals (ASBCA), in *Held & Francke Baukittengesellschaft* (ASBCA Nos. 42463 and 42464), held that FAR 32.901 improperly excluded applicability of the Prompt Payment Act (31 U.S.C. 3901, *et seq.*) to contracts awarded to foreign contractors for work performed outside the United States. As a result of the ASBCA decision, an interim rule was issued which, in effect, makes the Government liable for payment of interest and interest penalties under the

Act for contracts with foreign contractors for work performed or supplies delivered overseas.

Section 32.901 and the clauses at 52.232-25, 52.232-26, and 52.232-27 were amended by the interim rule to remove the statements that no interest penalty will be paid on contracts awarded to foreign vendors outside the United States for work performed outside the United States and to remove the definition of "foreign vendor" from the clauses. That interim rule, as amended on July 3, 1995, is now converted to a final rule without further change.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule only applies to contracts with foreign contractors for work performed overseas by extending the Government's liability to pay interest and penalties under the Prompt Payment Act to such entities. No comments were received on the impact of this rule on small entities during the public comment period.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 32 and 52

Government procurement.

Interim Rule Adopted as Final Without Change

Accordingly, the interim rule amending CFR Parts 32 and 52, which was published at 59 FR 11379, March 10, 1994 (FAC 90-20, Item XIII), and further amended by FAR case 94-770 (60 FR 34741, July 3, 1995), is adopted as a final rule without further change.

The authority citation for 48 CFR Parts 32 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

Dated: June 4, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 96-14537 Filed 6-19-96; 8:45 am]

BILLING CODE 6820-EP-P

48 CFR Parts 33, 42, and 52

[FAC 90-39; FAR Cases 91-062 and 92-301; Item XXIII]

RIN 9000-AE96/9000-AF35

Federal Acquisition Regulation; Alternate Dispute Resolution and Federal Courts Administration Act

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rules adopted as final.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to adopt two interim rules as final: FAR Case 91-62, Alternative Dispute Resolution, published in the Federal Register (FR) at 56 FR 67416, December 30, 1991, and 92-301, Federal Courts Administration Act, published at 59 FR 11380 on March 10, 1994. The rules amend the claim certification procedures and the Alternative Means of Dispute Resolution (ADR) procedures, and implement section 907(a) of the Federal Courts Administration Act of 1992. These regulatory actions were not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and are not major rules under 5 U.S.C. 804.

EFFECTIVE DATE: June 20, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Jack O'Neill at (202) 501-3856 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-39, FAR cases 91-062 and 92-301.

SUPPLEMENTARY INFORMATION:

A. Background

Upon passage of the Federal Courts Administration Act (Act) of 1992, the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council issued two interim rules implementing the changes made by the Act as well as changes to the Alternative Disputes Resolution procedures and claim certification procedures. Only three parties submitted comments in response to the interim rules. No issue was raised by the public comments that

necessitated changes to the interim rules. The interim rules are, therefore, being converted to final rules without change.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule simplifies policies and procedures for the certification of claims submitted by contractors and is intended to reduce the need for costly litigation which arose under previous regulations. No comments were received on the impact of this rule on small entities during the public comment period.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 33, 42, and 52

Government procurement.

Interim Rules Adopted as Final

Accordingly, the interim rule amending 48 CFR parts 33 and 52, which was published at 56 FR 67416, December 30, 1991, is adopted as final, as amended by the interim rule amending 48 CFR parts 33, 42 and 52, published at 59 FR 11380, March 10, 1994, which is hereby adopted as final without change.

The authority citation for 48 CFR parts 33, 42, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

Dated: June 4, 1996.

Edward C. Loeb,
Director, Federal Acquisition Policy Division.
[FR Doc. 96-14538 Filed 6-19-96; 8:45 am]

BILLING CODE 6820-EP-P

48 CFR Parts 34 and 52

[FAC 90-39; FAR Case 93-304; Item XXIV]

RIN 9000-AG11

Federal Acquisition Regulation; Defense Production Act Amendments

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule adopted as final.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to convert the interim rule published in the Federal Register at 59 FR 67047, December 28, 1994, to a final rule. This rule amends the Federal Acquisition Regulation (FAR) to add policy and procedures for testing and qualification, and use of industrial resources manufactured or developed with assistance provided under Title III of the Defense Production Act (DPA) of 1950. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: June 20, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Jack O'Neill at (202) 501-3856 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-39, FAR case 93-304.

SUPPLEMENTARY INFORMATION:

A. Background

Title III of the DPA authorizes various forms of Government assistance to encourage expansion of production of capacity and supply of industrial resources essential to national defense. The DPA Amendments of 1992 (Public Law 102-558) provide for the testing, qualification, and use of industrial resources manufactured or developed with assistance provided under Title III of the DPA. This rule expresses Government policy to pay for such testing, and provides definitions, procedures, and a contract clause to implement the policy. An interim rule was published in the Federal Register on December 28, 1994 (59 FR 67047), with a request for public comments. No comments were received.

B. Regulatory Flexibility Act

The addition of FAR Subpart 34.1 may have a significant economic impact on a substantial number of small entities

within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because small entities are sometimes asked to perform the qualification testing required under the rule. A Final Regulatory Flexibility Analysis has been prepared and is summarized as follows:

The change is required to implement amendments to the DPA made by Public Law 102-558. The DPA amendments provide for testing, qualification, and use of industrial resources manufactured or developed with assistance provided under Title III of the DPA. This rule expresses Government policy to pay for such testing, and provides definitions, procedures, and a contract clause to implement the policy. This rule will apply to any small entity that has Government contracts that require qualification testing under the Act. A reporting requirement is in the rule that requires contractors who perform this testing to provide the test results to the Government. No public comments were received in response to the statement in the interim rule regarding the Regulatory Flexibility Act. There are no alternatives that will accomplish the objectives of the rule.

C. Paperwork Reduction Act

The Paperwork Reduction Act is deemed to apply because the final rule contains information collection requirements. Accordingly, a request for approval of a new information collection requirement concerning the DPA Amendments was submitted to the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*, and approved under OMB Control No. 9000-0133 effective through September 30, 1997. Public comments concerning this request were invited through a Federal Register notice at 59 FR 67047, December 28, 1994, and no comments were received.

List of Subjects in 48 CFR Parts 34 and 52

Government procurement.

Interim Rule Adopted as Final Without Change

Accordingly, the interim rule amending CFR Parts 34 and 52, which was published at 59 FR 67047, December 28, 1994 (FAC 90-23, Item XXIV), is adopted as a final rule without change.

The authority citation for 48 CFR Parts 34 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

Dated: June 4, 1996.
Edward C. Loeb,
Director, Federal Acquisition Policy Division.
[FR Doc. 96-14539 Filed 6-19-96; 8:45 am]
BILLING CODE 6820-EP-P

48 CFR Part 37

[FAC 90-39; FAR Case 91-106; Item XXV]

RIN 9000-AF31

Federal Acquisition Regulation; Child Care Services

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule adopted as final.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to convert the interim rule published in the Federal Register at 59 FR 67050, December 28, 1994, to a final rule. The rule amends the Federal Acquisition Regulation (FAR) to add a definition of "child care services" and to require contracting officers to ensure that contracts for child care services include requirements for criminal history background checks of employees in accordance with 42 U.S.C. 13041. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: June 20, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein at (202) 501-3775 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-39, FAR case 91-106.

SUPPLEMENTARY INFORMATION:

A. Background

This rule implements Subtitle E, section 231 of the Crime Control Act of 1990 (Pub. L. 101-647), codified at 42 U.S.C. 13041, as amended by section 1094 of the Fiscal Year 1992 Defense Authorization Act (Public Law 102-190). The effective date for compliance with Public Law 101-647 was May 29, 1991. Public Law 102-190 was effective upon enactment on December 5, 1991.

In part, section 231 of Public Law 101-647 requires that child care employees, hired to provide child care services at a facility operated by the Government or under contract with the Government, undergo a criminal history

background check. The statute broadly defines "child care services" as child protective services (including the investigation of child abuse and neglect reports), social services, health and mental health care, child day care, education (whether or not directly involved in teaching), foster care, residential care, recreational or rehabilitative programs, and detention, correctional, or treatment services. Subsequently, section 1094 of Public Law 102-190 amended 42 U.S.C. 13041 to provide for the provisional supervised employment of child care employees prior to the completion of the required criminal history background check and specified additional safety measures for Federal child care service facilities.

B. Regulatory Flexibility Act

Under the interim rule, because Subtitle E, Section 231 of the Crime Control Act of 1990, Public Law 101-647 (42 U.S.C. 13041), requires child care employees hired under contract to undergo a criminal history background check, an Initial Regulatory Flexibility Act Analysis was prepared. No comments were received.

The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, applies to this final rule and a Final Regulatory Flexibility Analysis (FRFA) has been prepared and will be provided to the Chief Counsel for Advocacy for the Small Business Administration. A copy of the FRFA may be obtained from the FAR Secretariat.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 37

Government procurement.

Interim Rule Adopted as Final Without Change

Accordingly, the interim rule amending 48 CFR Part 37, which was published at 59 FR 67050, December 28, 1994 (FAC 90-23, Item XXVII) is adopted as a final rule without change.

The authority citation for 48 CFR Part 37 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

Dated: June 4, 1996.
Edward C. Loeb,
Director, Federal Acquisition Policy Division.
[FR Doc. 96-14540 Filed 6-19-96; 8:45 am]
BILLING CODE 6820-EP-P

48 CFR Parts 42 and 52

[FAC 90-39; FAR Case 95-009; Item XXVII]

RIN 9000-AG57

Federal Acquisition Regulation; Quick-Closeout Procedures

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) to ensure maximum use of the quick-closeout procedures. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: August 19, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein at (202) 501-3775 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-39, FAR case 95-009.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends FAR 42.708, Quick-closeout procedure, the clause at FAR 52.216-7, Allowable Cost and Payment, and the clause at FAR 52.216-13, Allowable Cost and Payment—Facilities, to ease the restrictions and maximize the use of the quick-closeout procedure. This rule was based on the recommendations of the Interagency Process Action Team (PAT) sponsored by the Air Force Materiel Command. The PAT's rationale was that, by raising the dollar limitation of quick-closeout procedures to those contracts with total unsettled indirect costs not exceeding \$1 million in lieu of \$500,000, the number of contracts which could be closed using quick-closeout procedures would increase. Use of this procedure would benefit contractors by allowing them to invoice earlier and avoid the administrative costs which would otherwise be incurred for tracking these

contracts until final indirect cost rates are negotiated. In addition, the use of quick-closeout procedures is voluntary on the part of the contractor to ensure that the contractor does not suffer any loss. The final rule (1) revises FAR 42.708(a) by substituting the word "shall" for "may"; (2) raises the limitation in FAR 42.708(a)(2)(i) for total unsettled indirect costs allocable to any one contract from \$500,000 to \$1 million; and (3) revises FAR 42.708(a)(2)(ii) to permit the contracting officer to waive the 15 percent restriction based upon a risk assessment that considers contractor's accounting, estimating, and purchasing systems; other concerns of the cognizant contract auditors; and any other pertinent information. Paragraph (f) of the clause at FAR 52.216-7 and paragraph (e) of the clause at 52.216-13 have also been revised to be consistent with the revisions to 42.708 as outlined above.

A proposed rule was published in the Federal Register on July 25, 1995 (60 FR 38196). Five comments from two sources were received in response to the proposed rule. All comments were considered in the development of the final rule.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because most contracts awarded to small business are awarded on the basis of a firm-fixed price, and settlement of final indirect cost rates is, therefore, not an issue. No comments were received on the impact of this rule on small entities during the public comment period.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 42 and 52

Government procurement.

Dated: June 4, 1996.
Edward C. Loeb,
Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 42 and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 42 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 42—CONTRACT ADMINISTRATION

2. Section 42.708 is amended in the introductory text of paragraph (a) by removing "may" and inserting "shall"; and by revising paragraph (a)(2) (i) and (ii) to read as follows:

42.708 Quick-closeout procedure.

- (a) * * *
(2) * * *

(i) The total unsettled indirect cost to be allocated to any one contract does not exceed \$1,000,000; and

(ii) Unless otherwise provided in agency procedures, the cumulative unsettled indirect costs to be allocated to one or more contracts in a single fiscal year do not exceed 15 percent of the estimated, total unsettled indirect costs allocable to cost-type contracts for that fiscal year. The contracting officer may waive the 15 percent restriction based upon a risk assessment that considers the contractor's accounting, estimating, and purchasing systems; other concerns of the cognizant contract auditors; and any other pertinent information; and

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 52.216-7 is amended by revising the date of the clause and paragraph (f) to read as follows:

52.216-7 Allowable Cost and Payment.

* * * * *

ALLOWABLE COST AND PAYMENT (AUG 1996)

* * * * *

(f) *Quick-closeout procedures.* Quick-closeout procedures are applicable when the conditions in FAR 42.708(a) are satisfied.

* * * * *

4. Section 52.216-13 is amended by revising the introductory paragraph, the date in the clause heading, and paragraph (e) to read as follows:

52.216-13 Allowable Cost and Payment—Facilities.

As prescribed in 16.307(g), insert the following clause:

ALLOWABLE COST AND PAYMENT—FACILITIES (AUG 1996)

* * * * *

(e) *Quick-closeout procedures.* Quick-closeout procedures are applicable when the conditions in FAR 42.708(a) are satisfied.

* * * * *

[FR Doc. 96-14541 Filed 6-19-96; 8:45 am]

BILLING CODE 6820-EP-P

48 CFR Part 46

[FAC 90-39; FAR Case 92-031; Item XXVII]

RIN 9000-AG06

Federal Acquisition Regulation; Quality Assurance Actions—Electronic Screening

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) to include definitions of the terms "latent defect" and "patent defect." This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: August 19, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein at (202) 501-3775 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-39, FAR case 92-031.

SUPPLEMENTARY INFORMATION:

A. Background

On June 8, 1992, the Department of Defense Inspector General issued Audit Report 92-099, Quality Assurance Actions Resulting from Electronic Component Screening, which included a recommendation that the Defense FAR Supplement be revised to include definitions of the terms "latent defect" and "patent defect." Since both terms are used in the FAR, Part 46 of the FAR is being revised to include uniform definitions for use by all acquiring agencies. A proposed rule was published in the Federal Register at 59 FR 46386 on September 8, 1994. After evaluation of public comments, the Councils agreed to convert the proposed rule to a final rule without change.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the revision merely provides uniform definitions for existing FAR terms. No comments were received on the impact of this rule on small entities during the public comment period.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 46

Government procurement.

Dated: June 4, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 46 is amended as set forth below:

PART 46—QUALITY ASSURANCE

1. The authority citation for 48 CFR Part 46 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 46.101 is amended by adding in alphabetical order the definitions "Latent defect" and "Patent defect" to read as follows:

46.101 Definitions.

* * * * *

Latent defect means a defect which exists at the time of acceptance but cannot be discovered by a reasonable inspection.

* * * * *

Patent defect means any defect which exists at the time of acceptance and is not a latent defect.

* * * * *

[FR Doc. 96-14542 Filed 6-19-96; 8:45 am]

BILLING CODE 6820-EP-P

48 CFR Part 46

[FAC 90-39; FAR Case 92-027; Item XXVIII]

RIN 9000-AF80

Federal Acquisition Regulation; Quality Assurance Nonconformances

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) to provide standardized definitions of the terms "critical nonconformance," "major nonconformance," and "minor nonconformance," and make other conforming amendments as a result of recommendations made by the Department of Defense Inspector General. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: August 19, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein at (202) 501-3775 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-39, FAR case 92-027.

SUPPLEMENTARY INFORMATION:**A. Background**

On September 27, 1990, the Department of Defense Inspector General (DoDIG) issued Audit Report 90-113, Nonconforming Products Procured by the Defense Industrial Supply Center. The report included recommendations that the DoD should use standardized terminology for a nonconformance, and that the DoD definition of a nonconformance should be in agreement with the FAR. On March 28, 1994 (59 FR 14466), the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council published a proposed rule implementing the DoDIG's recommendation.

As a result of evaluating the comments received, changes were made to the proposed rule. The changes included deleting the words "judgment and experience indicate" from the definition of "critical nonconformance;" and adding the words "of the supplies or services," to the definition of "major

nonconformance" after the word "failure."

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule merely provides standard terminology and definitions and guidance to contracting officers pertaining to nonconforming supplies and services. No comments were received on the impact of this rule on small entities during the public comment period.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 46

Government procurement.

Dated: June 4, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 46 is amended as set forth below:

PART 46—QUALITY ASSURANCE

1. The authority citation for 48 CFR Part 46 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 46.101 is amended by adding in alphabetical order the definitions "Critical nonconformance", "Major nonconformance", and "Minor nonconformance" to read as follows:

46.101 Definitions.

* * * * *

Critical nonconformance means a nonconformance that is likely to result in hazardous or unsafe conditions for individuals using, maintaining, or depending upon the supplies or services; or is likely to prevent performance of a vital agency mission.

* * * * *

Major nonconformance means a nonconformance, other than critical, that is likely to result in failure of the supplies or services, or to materially reduce the usability of the supplies or services for their intended purpose.

Minor nonconformance means a nonconformance that is not likely to materially reduce the usability of the supplies or services for their intended purpose, or is a departure from established standards having little bearing on the effective use or operation of the supplies or services.

* * * * *

3. Section 46.103 is amended at the end of paragraph (c) by removing “and”; in paragraph (d) by removing the period and inserting “; and”; and by adding paragraph (e) to read as follows:

46.103 Contracting office responsibilities.

* * * * *

(e) Ensuring that nonconformances are identified, and establishing the significance of a nonconformance when considering the acceptability of supplies or services which do not meet contract requirements.

4. Section 46.407 is amended by revising the first sentence of paragraph (c)(1) introductory text, and in the third sentence by removing the comma after the word “determination”; revising paragraph (d); and revising the first sentence of paragraph (f) to read as follows:

46.407 Nonconforming supplies or services.

* * * * *

(c)(1) In situations not covered by paragraph (b) of this section, the contracting officer shall ordinarily reject supplies or services when the nonconformance is critical or major.

* * *

* * * * *

(d) If the nonconformance is minor, the cognizant contract administration office may make the determination to accept or reject, except where this authority is withheld by the contracting office of the contracting activity. To assist in making this determination, the contract administration office may establish a joint contractor-contract administrative office review group. Acceptance of supplies and services with critical or major nonconformances is outside the scope of the review group.

* * * * *

(f) Each contract under which supplies or services with critical or major nonconformances are accepted as authorized in paragraph (c) of this section shall be modified to provide for an equitable price reduction or other consideration. * * *

* * * * *

[FR Doc. 96-14543 Filed 6-19-96; 8:45 am]

BILLING CODE 6820-EP-P

48 CFR Part 52

[FAC 90-39; FAR Case 95-603; Item XXIX]

RIN 9000-AG98

Federal Acquisition Regulation; Solicitation Provisions—Contract Clauses

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule to amend a Federal Acquisition Regulation (FAR) provision to delete the statement advising offerors to obtain copies of specifications from General Services Administration Business Service Centers. The substance of the provision is not changed. Specifications are no longer available at the Business Service Centers. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: August 19, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Jack O'Neill at (202) 501-3856 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405, (202) 501-4755. Please cite FAC 90-39, FAR case 95-603.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends the provision at FAR 52.211-1 to delete the statement that copies of specifications may be obtained from the General Services Administration Business Service Centers in Boston, New York, Philadelphia, Atlanta, Kansas City, and Fort Worth. Copies of specifications are no longer available at the Business Service Centers.

B. Regulatory Flexibility Act

The final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98-577, and publication for public comments is not required. Therefore, the Regulatory Flexibility Act does not apply. However, comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAC 90-

39, FAR case 95-603), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 52

Government procurement.

Dated: June 4, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 52 is amended as set forth below:

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1. The authority citation for 48 CFR Part 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

52.211-1 [Amended]

2. Section 52.211-1 is amended in the introductory paragraph by revising “11.203(a)” to read “11.204(a)”; revising the date of the provision to read “(AUG 1996)”; and in the first sentence of paragraph (a) of the provision by removing “, or from any of the General Services Administration Business Service Centers which are located in Boston, MA; New York, NY; Philadelphia, PA; Atlanta, GA; Kansas City, MO; and Fort Worth, TX.” and replacing it with a period.

52.211-2 and 52.211-3 [Amended]

3. Section 52.211-2 is amended in the introductory paragraph by revising “11.203(b)” to read “11.204(b)”.

4. Section 52.211-3 is amended in the introductory paragraph by revising “11.203(c)” to read “11.204(c)”.

[FR Doc. 96-14544 Filed 6-19-96; 8:45 am]

BILLING CODE 6820-EP-P

48 CFR Part 52

[FAC 90-39; FAR Case 91-031; Item XXX]

RIN 9000-AE41

Federal Acquisition Regulation; Contract Award—Sealed Bidding—Construction

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) to inform offerors under construction solicitations that the Government may reject bids as nonresponsive if the prices are materially unbalanced. The proposed rule was published in the Federal Register at 56 FR 29539, June 27, 1991. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: August 19, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Jack O'Neill at (202) 501-3856 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-39, FAR case 91-31.

SUPPLEMENTARY INFORMATION:**A. Background**

The FAR was previously amended to include unbalanced bidding provisions at 52.214-10, Contract Award—Sealed Bidding, and 52.215-16, Contract Award, for supplies and services procured under sealed bidding and negotiation procedures. At that time, the unbalanced bidding provisions were not made applicable to construction solicitations. However, the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have decided that, for consistency, construction solicitations should include a similar provision to notify offerors that their bids may be rejected as nonresponsive if the prices are materially unbalanced.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because unbalanced bidding provisions have already been incorporated in solicitations, for other than construction, with no known impact on the small business community. No comments were received on the impact of this rule on small entities during the public comment period.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 52

Government procurement.

Dated: June 4, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 52 is amended as set forth below:

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1. The authority citation for 48 CFR Part 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 52.214-19 is amended by revising the date of the provision to read "(AUG 1996)"; and by adding paragraph (d) to the provision to read as follows:

52.214-19 Contract Award—Sealed Bidding—Construction.

* * * * *

CONTRACT AWARD—SEALED BIDDING—CONSTRUCTION (AUG 1996)

* * * * *

(d) The Government may reject a bid as nonresponsive if the prices bid are materially unbalanced between line items or subline items. A bid is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated in relation to cost for other work, and if there is a reasonable doubt that the bid will result in the lowest overall cost to the Government even though it may be the low evaluated bid, or if it is so unbalanced as to be tantamount to allowing an advance payment.

[FR Doc. 96-14545 Filed 6-19-96; 8:45 am]

BILLING CODE 6820-EP-P

48 CFR Part 52

[FAC 90-39; FAR Case 93-305; Item XXXI]

RIN 9000-AF54

Federal Acquisition Regulation; Small Business Innovation Research Rights in Data

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule adopted as final.

SUMMARY: The Civilian Agency Acquisition Council and the Defense

Acquisition Regulations Council have agreed to convert the interim rule published at 59 FR 11386, March 10, 1994, to a final rule without change. The rule amends the Federal Acquisition Regulation (FAR) to implement Section 15(f) of the revised SBIR Program Policy Directive published by the Small Business Administration in the Federal Register on January 26, 1993 (58 FR 6144). The revision to the clause, Rights in Data—SBIR Program, increases the small business concern's data rights retention period from 2 to 4 years. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: June 20, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Jack O'Neill at (202) 501-3856 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-39, FAR case 93-305.

SUPPLEMENTARY INFORMATION:**A. Background**

This rule implements Section 15(f) of the revised SBIR Program Policy Directive published by the SBA in the Federal Register on January 26, 1993 (58 FR 6144). Section 15(f) implements Section 103(f)(4) of Public Law 102-564, "Small Business Research and Development Enhancement Act of 1992," which increases the small business concern's data rights retention period from 2 to 4 years.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule merely amends the FAR to conform to the requirements of the Small Business Innovation Research Program Policy Directive published by the Small Business Administration. No comments were received on the impact of this rule on small entities during the public comment period.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors,

contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 52

Government procurement.

Interim Rule Adopted as Final Without Change

Accordingly, the interim rule amending 48 CFR Part 52, which was published at 59 FR 11386, March 10, 1994 (FAC 90-20, Item XIX), is adopted as a final rule without change.

The authority citation for 48 CFR Part 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

Dated: June 4, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 96-14546 Filed 6-19-96; 8:45 am]

BILLING CODE 6820-EP-P

48 CFR Part 52

[FAC 90-39; FAR Case 92-001; Item XXXII]

RIN 9000-AG94

Federal Acquisition Regulation; Inspection Clauses—Fixed Price

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule to clarify certain Federal Acquisition Regulation (FAR) Inspection clauses pertaining to quality assurance by replacing the words “without additional charge” with the words “at no increase in contract price.” This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: August 19, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein at (202) 501-3775 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4035, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-39, FAR case 92-001.

SUPPLEMENTARY INFORMATION:

A. Background

An amendment to FAR 52.246-4 published in Federal Acquisition

Circular 90-09 as FAR case 90-58 (see 56 FR 67135, December 27, 1991), included the addition of the phrase “without additional charge” in paragraph (d). A comment was received questioning the phrase “without additional charge.” As a result, this final rule replaces the phrase “without additional charge” with the phrase “at no increase in contract price” in certain FAR Inspection clauses for clarity.

B. Regulatory Flexibility Act

The final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98-577, and publication for public comments is not required. Therefore, the Regulatory Flexibility Act does not apply. However, comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAC 90-39, FAR case 92-001), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because these final changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 52

Government procurement.

Dated: June 4, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 52 is amended as set forth below:

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1. The authority citation for 48 CFR Part 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

§ 52.246-2, 52.246-4, 52.246-7, 52.246-12, and 52.246-13 [Amended]

2. The clause dates in sections 52.246-2, 52.246-4, 52.246-7, 52.246-12, and 52.246-13 are revised to read “(AUG 1996)”; and sections 52.246-2(d), 52.246-4(d), 52.246-7(c), and 52.246-12(e) are amended by removing the words “without additional charge” and inserting “at no increase in contract price” in their place; and section 52.246-13(a) is amended by removing the words promptly and without additional charge” and inserting

“promptly, and at no increase in contract price” in its place.

[FR Doc. 96-14547 Filed 6-19-96; 8:45 am]

BILLING CODE 6820-EP-P

48 CFR Part 52

[FAC 90-39; FAR Case 91-102; Item XXXIII]

RIN 9000-AF55

Federal Acquisition Regulation; Termination for Convenience

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) to clarify language in the “Termination for Convenience of the Government (Fixed-Price)” clause. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: August 19, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein at (202) 501-3775 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-39, FAR case 91-102.

SUPPLEMENTARY INFORMATION:

A. Background

A proposed rule was published in the Federal Register at 58 FR 64826, December 9, 1993. The proposed rule amended the clause at FAR 52.249-2, Termination for Convenience of the Government (Fixed-Price), to clarify existing language. Changes were made to clarify that incremental payments may be involved in some instances, such as a partial termination action, and to clarify the two instances when the contractor forfeits its right of appeal. After evaluation of public comments, the Councils agreed to two changes in the proposal. The first change revises paragraph (e) of the clause by replacing the word “amended” with the word “modified.” The second change revises paragraph (i) by deleting the phrase “following a claim and final decision.”

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and

the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because it simply clarifies existing language pertaining to settlement of contract termination costs. No comments were received on the impact of this rule on small entities during the public comment period.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 52

Government procurement.

Dated: June 4, 1996.
Edward C. Loeb,
Director, Federal Acquisition Policy Division.
Therefore, 48 CFR Part 52 is amended as set forth below:

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1. The authority citation for 48 CFR Part 52 continues to read as follows:
- Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).
2. Section 52.249-2 is amended by revising the date in the clause heading; and revising paragraphs (e) and (i) of the clause to read as follows:

§ 52.249-2 Termination for Convenience of the Government (Fixed-Price).

TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE) (AUG 1996)

- (e) Subject to paragraph (d) of this clause, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount to be paid or remaining to be paid because of the termination. The amount may

include a reasonable allowance for profit on work done. However, the agreed amount, whether under this paragraph (e) or paragraph (f) of this clause, exclusive of costs shown in subparagraph (f)(3) of this clause, may not exceed the total contract price as reduced by (1) the amount of payments previously made and (2) the contract price of work not terminated. The contract shall be modified, and the Contractor paid the agreed amount. Paragraph (f) of this clause shall not limit, restrict, or affect the amount that may be agreed upon to be paid under this paragraph.

- (i) The Contractor shall have the right of appeal, under the Disputes clause, from any determination made by the Contracting Officer under paragraph (d), (f), or (k) of this clause, except that if the Contractor failed to submit the termination settlement proposal or request for equitable adjustment within the time provided in paragraph (d) or (k), respectively, and failed to request a time extension, there is no right of appeal.

(End of clause)